

**SOCIETY, ECONOMY AND  
CRIMINAL ACTIVITY IN COLONIAL NATAL  
1860 - 1893**

by

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## PREFACE

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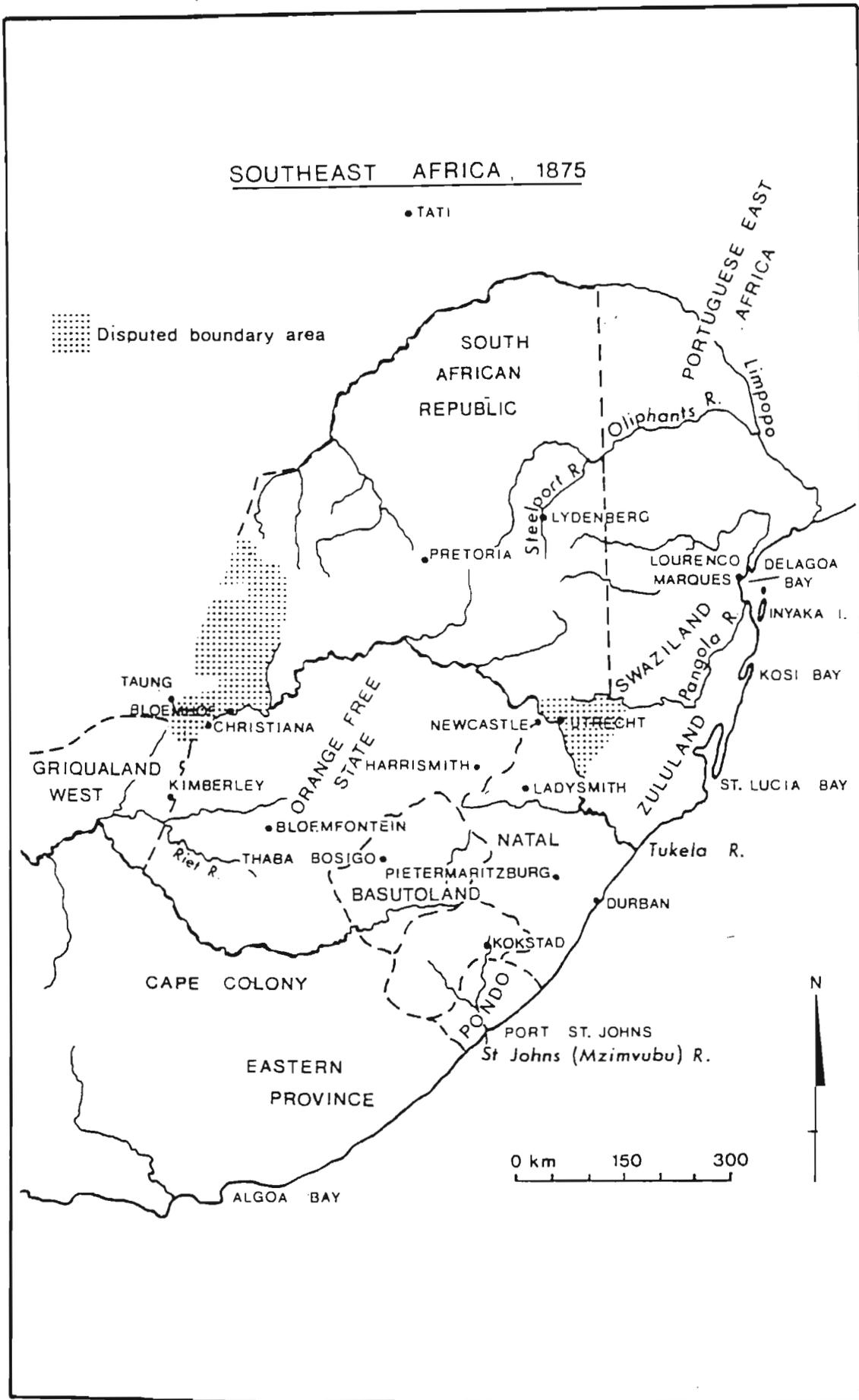
On a personal note, I would like to express my sincere appreciation to my family who have contributed so much to the initiation and completion of this study: my lovely wife, Helen, I thank you for your unfailing moral and practical support; my beautiful children, Kerry-Leigh and Natalie, I delight in you; my mother, thank you for emphasising the importance of education.

Finally, I thank Jesus Christ, my Lord and Saviour, for giving me the ability and determination to complete this study. I give You all the glory.

In compliance with the regulations of the University of Natal, I declare that this entire thesis is, except where specifically indicated to the contrary in the text, my own original work.

Durban

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Map 1: Southeast Africa 1875



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ABBREVIATIONS

C.O.	-	Colonial Office Confidential Papers.
L.C.	-	Debates of the Legislative Council.
M.M.	-	Mayor's Minute.
N.B.B.	-	Natal Blue Book.
N.G.G.	-	Natal Government Gazette.
N.M.	-	Natal Mercury.
N.W.	-	Natal Witness.
R.M.	-	Resident Magistrate.
S.N.A.	-	Secretary for Native Affairs.

## CHAPTER ONE

### INTRODUCTION

This introduction falls into three parts: a review of the relevant literature, aims and methodology, and an analysis of the various sources used. Important aspects of social history have been virtually ignored by the writers of standard works on South African history, who tend to concentrate on events of political and economic significance. Cory was the first historian to produce a detailed history of South Africa, but his work is overburdened with detail, especially in his treatment of the Eastern Cape, and he views events from a white colonial perspective. <sup>(1)</sup>Theal's History of South Africa since 1795 is a monumental work comprising eleven volumes. <sup>(2)</sup> It provides a mass of factual information but lacks broad perspective, emphasises local affairs and uncritically accepts the white colonial viewpoint on contentious racial issues. <sup>(3)</sup> Despite these limitations, Theal's work overshadowed South African historiography until the arrival of Walker's A History of South Africa in 1947, which rapidly became a standard work. <sup>(4)</sup> This was later revised and extended as A History of Southern Africa. <sup>(5)</sup> This was a significant improvement on the earlier histories in that it moved away from a plethora of detail towards a more interpretative analysis and showed concern for the position of black peoples. <sup>(6)</sup> In

<sup>1</sup> G.E. Cory, The Rise of South Africa from the earliest times to 1857. Five volumes. (London, 1910-30). In this study, the term "African" indicates Zulu-speaking Nguni people, while "Indian" refers to Indian immigrants (and their descendants) who came to Natal from India. The term "black" is used in a general sense, indicating indigenous Africans, Indians and any other persons of colour.

<sup>2</sup>. G. McC. Theal, History of South Africa Since 1795. 11 volumes. (London, 1922).

<sup>3</sup>. Cory and Theal belong to the school of colonial historiography, which developed in the nineteenth-century to represent the identity and interests of the British colonist. They deal with themes such as the arrival of the British and the achievements of British settlers in the Eastern Province. They condemn both African "barbarism" and the lack of Boer culture and education. Their work provides an important starting point for the history of South African historiography.

<sup>4</sup>. E.A. Walker, A History of South Africa (London, 1947).

<sup>5</sup>. E.A. Walker, A History of Southern Africa (London, 1957).

<sup>6</sup>. Walker was a member of the new group of liberal historians, which flourished from the 1920s onwards in a period of growing opposition to the white government's racial policies. The basic tenets of liberalism are: 1) The fundamental dignity and potential goodness of humanity. 2) Human rights and liberties irrespective of colour, race

1949 Keppel-Jones produced a somewhat shorter history, South Africa, which combines factual accuracy with lively interpretation. <sup>(7)</sup> De Kiewiet's A History of South Africa: social and economic followed in 1957, further enhancing the 'liberal' tradition. <sup>(8)</sup> The two-volume Oxford History of South Africa, written in the belief that "the central theme in South African history is interaction between peoples of diverse origins, languages, technologies, ideologies, and social systems, meeting on South African soil", likewise fails to deal with crime and social problems. <sup>(9)</sup> Davenport's South Africa, a modern History, described by one writer as "probably the best one-volume work on the subject yet published", is essentially a political history. <sup>(10)</sup> A New History of Southern Africa, the first attempt at writing a radical history of the region, is concerned primarily with popular history, the placing of Africans rather than Europeans at the centre of the historical stage. <sup>(11)</sup> As such, it contributes little to our knowledge of social history *per se*. As can be seen from the above overview of the main works on South African history, South African historiography has largely neglected the study of crime and social problems. Indeed, this is a reflection of specific manifestations of social history having been ignored as historians were consumed by the vigorous liberal-radical debates of the 1970s and 1980s. <sup>(12)</sup>

The historiography of Natal has been marked by a few notable historians.

Mackeurtan has described the history of the settlement from 1497 to 1845, but his work lacks the authority of later works. <sup>(13)</sup> Holden's History of the Colony of Natal is an important work, in that it provides an historical narrative of events up to 1854. <sup>(14)</sup> He discusses many of the issues facing the colony, such as the "native" problem. Mann sketched the colony's history in his books which were designed primarily to

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and creed. 3) Respect for private property. 4) Opposition to government interference in the economy.

<sup>7</sup>. .A.M. Keppel-Jones, South Africa (London, 1949).

<sup>8</sup>. C.W. De Kiewiet, A History of South Africa: Social and Economic (London, 1957).

<sup>9</sup>. M. Wilson and L. Thompson (eds.), Oxford History of South Africa. Two volumes. (Oxford, 1971). This work is regarded as the classic liberal account of the history of South Africa.

<sup>10</sup>. M. Berlins, Times Educational Supplement. T.R.H. Davenport, South Africa, A Modern History (Johannesburg, 1977). He describes himself as a "liberal Africanist".

<sup>11</sup>. N. Parsons, A New History of Southern Africa (London, 1982).

<sup>12</sup>. See H.M. Wright, The Burden of the Present (Cape Town, 1977).

<sup>13</sup>. G. MacKeurtan, The Cradle Days of Natal, 1497-1845 (London, 1931).

<sup>14</sup>. W.C. Holden, History of the Colony of Natal (London, 1855).

provide information for prospective emigrants to the colony. <sup>(15)</sup> Brooks provided a brief historical section on the period 1823-1875 in Natal: a history and description of the colony. <sup>(16)</sup> In 1891 Russell produced a significant account of the colony's history and geography. <sup>(17)</sup> Revised in 1904, the new edition remained the most comprehensive account of the history of colonial Natal for more than 60 years. Generally reliable in its basic information, the work is, however, inadequate on the level of explanation and interpretation. Indeed, this is a common weakness of the early historiography of Natal: while providing a good deal of interesting and important factual information, these early works fail to introduce any significant degree of analysis or historical perspective.

Brookes' and Webb's A History of Natal marked an important milestone in the development of Natal historiography, being the first scholarly history of Natal since the appearance of Russell's history more than half a century earlier. <sup>(18)</sup> It introduced a new level of discussion and interpretation. But while it is fairly useful to the social historian as a standard reference work on the history of Natal, there is little discussion of Natal's social history as such. The authors, however, were well aware of this, and in the preface draw attention to the fact that their work only fulfills the "urgent need" for a "single-volume general history of Natal", and that a "definitive history" of Natal still remains to be written. <sup>(19)</sup> Brookes' and Webb's bibliography does, however, show the extent of the literature on various socio-economic aspects of colonial life in Natal. The Eurocentric bias of the authors is a significant limitation and detracts from the value of the work for the critical historian. There is "little analysis of those historical processes in the nineteenth century which were solely African - little awareness of the response African peoples can and did make to colonial rule, whether in Natal or in Zululand." <sup>(20)</sup>

During 1989 a new history of Natal was published, Natal and Zululand from the earliest times to 1910. Edited by Duminy and Guest, it represents a significant

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<sup>15.</sup> R.J. Mann (ed.), The Colony of Natal: An Account of the Characteristics and Capabilities of this British Dependancy (London, 1859); The Emigrant's Guide to the Colony of Natal (London, 1868).

<sup>16.</sup> H. Brooks, Natal: A History and Description of the Colony (London, 1876).

<sup>17.</sup> R. Russell, Natal: The Land and its Story (Pietermaritzburg, 1891).

<sup>18.</sup> E.H. Brooks and C. de B. Webb, A History of Natal (Pietermaritzburg, 1965).

<sup>19.</sup> E.H. Brooks and C. de B. Webb, Natal, preface.

<sup>20.</sup> S. Marks, "The Nguni, the Natalians, and their History", Journal of African History, Vol. 8, No. 3 (1970).

advance in the critical scholarship of the region's history. <sup>(21)</sup> The book illustrates most clearly the dramatic advances made in Natal historical studies since the publication of Brookes' and Webb's A History of Natal twenty-five years previously.

Despite the accolades accorded to this new history, the work has received stern criticism from a number of notable historians. Marks, while praising the profound advances made, criticises the editors for their "failure to address analytical issues." She claims that "the avoidance of debate means that crucial decisions about the organisation of material and competing explanatory paradigms, have not been taken." She concludes her criticism by alluding to an alleged absence of critical analysis and debate:

In the absence of the questions, we have no organising principles and no conception of priorities or of the totality of historical experiences. The result...is a good deal of cross referencing of matters that should have been considered dialectically - not only the relationship of politics to the economy, but specific matters relating, for example, black and white politics, or the experiences of whites, Indians and Africans, which through its racial compartmentalisation tend to fall through the cracks. <sup>(22)</sup>

Cope, whilst recognising the usefulness of this work, argues (with reference to the fact that the book is a compilation of 16 essays written by 14 different scholars) that "it is not a substitute for the sustained and coherent product of a single mind." <sup>(23)</sup> He claims that the new book is more in the nature of a report on the work done since 1965 than a comprehensive synthesis, while the editors' conclusion serves to fill in certain gaps rather than to provide any coherent view of the subject as a whole. <sup>(24)</sup> Freund also criticises the compartmentalisation of Natal's history into racial chapters. <sup>(25)</sup>

Like the standard works on South African history, the general texts on the history of Natal do not attempt any discussion of vice and social problems. Even the latest synthesis offered by Duminy and Guest does not claim to fill this particular vacuum in Natal's historical writing.

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<sup>21</sup>. A. Duminy and B. Guest (eds.), Natal and Zululand from the earliest times to 1910 (Pietermaritzburg, 1989).

<sup>22</sup>. Review article by S. Marks in Journal of Natal and Zulu History, Vol. 13, 1990-1, p. 116.

<sup>23</sup>. Review article by R.L. Cope in Natalia, No. 20, December 1990, p. 86.

<sup>24</sup>. Ibid.

<sup>25</sup>. Review article by W. Freund in South African Historical Journal, 1990, pp. 223-4.

"The economic and social history of colonial Natal cannot be described as a neglected field. During the last fifty years numerous monographs, many in the form of unpublished theses, have been produced in particular aspects of colonial society and its economy." <sup>(26)</sup> In more than a dozen books, Hattersley, acknowledged as the outstanding historian of the British settlement of Natal, has sketched a graphic picture of the lives and achievements of Natal's white settler community. <sup>(27)</sup> The work of Bryant, Krige, Omer-Cooper, Marks and Guy has provided a better understanding of the history and social structure of the indigenous black population. <sup>(28)</sup> The James Stuart Archive is currently making a further contribution to our knowledge of this. <sup>(29)</sup> In the 1950s important research on the Indian community was undertaken by Thompson, Palmer, and Kuper. <sup>(30)</sup> More recently, Pachai, Bhana, and Brain have made further contributions. <sup>(31)</sup>

<sup>26.</sup> B. Guest and J.M. Sellers (eds.), Enterprise and Exploitation in a Victorian Colony (Pietermaritzburg, 1985), p. 1.

<sup>27.</sup> See, in particular, A.F. Hattersley, More Annals of Natal (London, 1936); Pietermaritzburg Panorama (Pietermaritzburg, 1938); Later Annals of Natal (London, 1938); The Natalians: Further Annals of Natal (Pietermaritzburg, 1940); Portrait of a Colony (Cambridge, 1940); The Natal Settlers, 1849-1851 (Pietermaritzburg, 1949); The British Settlement of Natal: A Study in Imperial Migration (Cambridge, 1950); Portrait of a City (Pietermaritzburg, 1951) and A Camera on Old Natal (Pietermaritzburg, 1960).

<sup>28.</sup> See A.T. Bryant, Olden Times in Zululand and Natal (London, 1929), The Zulu People: As They were Before the White Man Came (Pietermaritzburg, 1949), Bantu Origins: The People and their Language (Cape Town, 1963) and A History of the Zulu and Neighbouring Tribes (Cape Town, 1964); E.J. Krige, The Social System of the Zulus (London, 1936), a standard authority; J.D. Omer-Cooper, The Zulu Aftermath: A Nineteenth-Century Revolution in Bantu Africa (London, 1966); S. Marks, Reluctant Rebellion: The 1906-8 Disturbances in Natal (Oxford, 1970); J.J. Guy, The Destruction of the Zulu Kingdom: The Civil War in Zululand, 1879-1884 (London, 1979).

<sup>29.</sup> C. de B. Webb and J.B. Wright (eds.), The James Stuart Archive of Recorded Oral Evidence Relating to the History of the Zulu and Neighbouring Peoples. Four volumes. (Pietermaritzburg, 1976, 1979, 1982, 1986).

<sup>30.</sup> See L.M. Thompson, "Indian Immigration into Natal, 1860-1872", M.A. dissertation, Rhodes University, in Archives Year Book, Vol. 2, 1952; M. Palmer, The History of the Indians in Natal (Cape Town, 1957) - discusses social and political developments which have affected Indians since their arrival in 1860; H. Kuper, Indian People in Natal (Pietermaritzburg, 1960) - an important sociological study.

<sup>31.</sup> B. Pachai, The International Aspects of the South African Indian Question, 1860-1971 (Cape Town, 1971); S. Bhana and B. Pachai (eds.), A Documentary History of Indian South Africans (Cape Town, 1984); J.B. Brain, Christian Indians

Swanson was a pioneer in the field of urban ethnic and social history in Natal, and first drew attention to important social problems such as the "Kafir Social Pest" and the registration of Africans. <sup>(32)</sup> Since his initial doctoral contribution, Swanson has written a number of important articles on various aspects of Natal's social history, with particular reference to the development of urban racial policies in Durban.<sup>(33)</sup> Apart from these articles, however, little has been done to expand on and develop his initial contribution. There are, however, certain major exceptions. Hemson has contributed to the social history of Natal with his research into the class consciousness of Durban's dockworkers. <sup>(34)</sup> Beall has provided some important insights into class, race and gender in colonial Natal with her research on the position of women (black, white and Indian) within the political economy of the colony. <sup>(35)</sup> MacKenzie has written a social history of African women in Durban for the period 1920-1950, showing the kinds of problems confronting black women moving into an urban area. <sup>(36)</sup> Some of these can be traced back to the colonial period when the increasing urbanisation of African women produced a variety of social problems. la Hausses' thesis on the role of alcohol among the black male

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in Natal 1860-1911: An Historical and Statistical Study (Cape Town, 1983).

- <sup>32.</sup> M.W. Swanson, "The Rise of Multi-Racial Durban: Urban History and Race Policy in South Africa, 1830-1930", Ph.D. dissertation, Harvard University, 1964.
- <sup>33.</sup> M.W. Swanson, "Urban Origins of Separate Development", Race, Vol. 10, 1968; "Reflections on the Urban History of South Africa: Some Problems and Possibilities, with Special Reference to Durban" in H.L. Watts (ed.), Focus on Cities (Durban, 1970); "The Durban System: Roots of Urban Apartheid in Colonial Natal", African Studies, Vol. 35, 1976; "The Urban Factor in Natal Native Policy, 1843-1873", Journal of Natal and Zulu History, Vol. 3, 1980; "'The Asiatic Menace': Creating Segregation in Durban, 1870-1900", International Journal of African Historical Studies, Vol. 16, No. 3, 1983. See also his article on "'The Sanitation Syndrome': Bubonic Plague and Urban Native Policy in the Cape Colony, 1900-1909", Journal of African History, Vol. 18, No. 3, 1977.
- <sup>34.</sup> D. Hemson, "Class Consciousness and Migrant Workers: Dockworkers of Durban", Ph.D. dissertation, University of Warwick, 1979.
- <sup>35.</sup> J.D. Beall, "The Function and Status of African Women in the Social and Economic Life of Natal and Zululand: 1818-1879", B.A. (hons) thesis, University of Natal (Durban), 1981; "Class, Race and Gender: The Political Economy of Women in Colonial Natal", M.A. dissertation, University of Natal (Durban), 1982.
- <sup>36.</sup> D.J. MacKenzie, "A Social History of African Women in Durban, 1920-1950", M. Soc. Sc. dissertation, University of Natal (Durban), 1984.

community in Durban during the period 1902-1936 provides some useful comparisons for a study of the colonial liquor question. <sup>(37)</sup>

In more recent years a number of historians have contributed further to our knowledge and understanding of various aspects of the social and economic life of Natal. Enterprise and Exploitation in a Victorian Colony: Aspects of the economic and social history of colonial Natal is a pioneering work on the socio-economic history of the colony, but concentrates more on the economic dimension. <sup>(38)</sup> Posel has elucidated the nature of white prostitution in Durban during the early 1900s, while Ramsay has undertaken a similar study of African prostitutes in Durban. <sup>(39)</sup> Noble has attempted to explain the position of white women in Durban during the first two decades of the twentieth century. <sup>(40)</sup>

The social historians of the Transvaal and Cape have produced some important work on their particular regions. Van Onselen made the first really significant contribution to the social history of South Africa with research on the social and economic history of the Witwatersrand. <sup>(41)</sup> He has pioneered the way for further research, which should ensure that social history will eventually assume its rightful place beside its political and economic counterparts. Bor has analysed liquor and labour in the Cape Colony in the late nineteenth century. <sup>(42)</sup> More recently, Van Heyningen has written an important article on prostitution in the Cape Colony. <sup>(43)</sup> These works provide an important and interesting comparative analysis for this study of social problems in colonial Natal.

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<sup>37</sup>. P. la Hausse, "The Struggle for the City: Alcohol, the *Ematsheni* and Popular Culture in Durban, 1902-1936", M.A. dissertation, University of Cape Town, 1984.

<sup>38</sup>. B. Guest and J.M. Sellers (eds.), op. cit.

<sup>39</sup>. R. Posel, "'A modern Babylon': white prostitution in Durban at the turn of the century", Working Paper presented at ASSA Conference, Durban, 1986; S.M.J. Ramsay, "Eve Noire: 'Folk Devil' and 'Guardian of Virtue' - some thoughts on African prostitution in Durban at the turn of the century", B.A.(hons.) thesis, University of Natal (Durban), 1991.

<sup>40</sup>. K. Noble, "Ideal, Reality and Opposition: White Women in Durban, 1900-1920", M.A. thesis, University of Natal (Durban), 1991.

<sup>41</sup>. C. van Onselen, Studies in the Social and Economic History of the Witwatersrand 1886-1914. 1. New Babylon, 2. New Nineveh (Johannesburg, 1982).

<sup>42</sup>. J. Bor, "Liquor and Labour in the Cape in the Late Nineteenth Century", B.A. (hons.) thesis, University of CapeTown, 1978.

<sup>43</sup>. E.B. van Heyningen, "The Social Evil in the Cape Colony 1868-1902: Prostitution and the Contagious Diseases Acts", Journal of Southern African Studies, Vol. 10, No. 2, 1984.

Several useful works have been produced on the history of colonial Durban and Pietermaritzburg. Written by contemporaries or near-contemporaries, they provide important insights into the social, economic and political affairs of the colony's principal towns. Russell has described events and life in old Durban for the period 1850 to 1860. <sup>(44)</sup> Hattersley has surveyed the development of the city of Pietermaritzburg, while Ingram sketched colonial life in both Durban and Pietermaritzburg. <sup>(45)</sup> Henderson describes the municipal history of Durban from 1854 to 1904. <sup>(46)</sup> MacMillan traces the development of Durban to 1936, including several interesting photographs of the town. <sup>(47)</sup> While these works form an important part of the historiography of old Durban and Pietermaritzburg, they are essentially narrative in style, lacking both interpretation and historical perspective. Themes such as crime and social problems are not interwoven into the factual description of these colonial towns. It was the duty of later historians to perform this task.

Crime in colonial Natal has been completely ignored by social historians of the period, with the notable exception of Spiller, who first opened up the field of investigation of criminal activity in the colony with his excellent articles on criminal justice in the early Natal Supreme Court. <sup>(48)</sup> While he does take cognizance of socio-economic factors, Spiller's work is written essentially from a legal stand-point. An historian is needed to study crime in the colony in more complete detail and from an historical perspective, and to consider the development of crime within the overall context of society and economy during the period under investigation. The social, economic, political and cultural factors, which influence both the commitment of crime and the sentences handed down to offenders, need to be considered and explained in a more detailed historical analysis.

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<sup>44</sup>. G. Russell, The History of Old Durban and Reminiscences of an Immigrant of 1850 (Durban, 1899).

<sup>45</sup>. A.F. Hattersley, Pietermaritzburg Panorama (Pietermaritzburg, 1938); Portrait of a City (Pietermaritzburg, 1951). J.F. Ingram, The Story of an African City (Pietermaritzburg, 1898), provides an outline of Maritzburg for the period 1838-1898; The Story of an African Seaport (Durban, 1899) outlines the growth of Durban during the years 1824-1898.

<sup>46</sup>. W.P.M. Henderson, Durban: Fifty Years' Municipal History (Durban, 1904).

<sup>47</sup>. A. MacMillan (ed.), Durban Past and Present (Durban, 1936).

<sup>48</sup>. P. Spiller, "Criminal Justice in the Early Natal Supreme Court (1858-1874)", South African Journal of Criminal Law and Criminology, July 1983, November 1984. See also his Ph.D. dissertation, "The Natal Supreme Court: Its Origins (1846-1858) and Its Early Development (1858-1874)", Public Law, University of Natal, Durban, 1982.

The above overview of South African and Natal historiography clearly reveals that, although various aspects of the socio-economic development of colonial Natal have been researched, crime and social problems remains a neglected field. It is hoped that this thesis will go some way towards rectifying this omission.

Turning now to a discussion of the primary aims of this thesis and the methodology used, the broad purpose of the study is an analysis of certain types of crime and social problems in the Colony of Natal between 1860 and 1893. This investigation seeks to examine the interplay of the material, social and political processes present in Natal's colonial society in order to interpret and explain the empirical data which is being presented. It will investigate crimes of a social and economic nature which were committed against the social and material order of society as defined by the political decision-makers and those of influence in the colony. In this context, it is important to emphasise that the political, economic and social strata of colonial society were dominated by white, Victorian men. Officials were appointed by the British Colonial Office and powerful and influential members of the settler society. The influence of Africans and Indians, and women, was marginal at best. Women, both black and white, were influential in the home and the Church, but were deprived of a political voice and were generally prevented from challenging male dominance in the market place. For this reason, the vast majority of the sources reflect male opinion, usually the opinions of white males. This thesis examines crimes committed against the material possessions of members of colonial society and crimes of a social nature which were considered to be offensive and unacceptable to those wielding political power and influence. Crimes of a capital nature, such as murder, common assault, treason and rebellion, are, therefore, deliberately excluded from this particular study.

Any study of crime has to come to terms with the parameters within which criminal activity is to be defined for any given society. This is no less true for this particular study of crime in colonial Natal. Crime is the violation of a law which society has chosen to pass and is not necessarily 'wrong-doing' as such. While it is primarily a legal concept, of even greater importance is its social bearing, for laws are the result of public opinion and an act cannot be considered a crime unless society puts a stamp of disapproval upon it: "A crime is an act that society has condemned and upon the committing of which society has put a penalty. Society, however, is continually changing its attitude in regard to what it considers harmful or

advantageous." (49) This assertion is of particular relevance to Natal's colonial society, where the presence of a large non-European population, consisting of Africans and Indians, meant that the definition of crime and the necessity for social control assumed a peculiarly ethnic dimension. Crime is not studied for its own sake, but is a reflection of the broader socio-economic and political trends in any society. This study will attempt to show that crime in colonial Natal was very much a social and ethnic phenomenon and that white attitudes to crime (committed by all races and classes) reflected their changing conceptions and misconceptions about the nature and purpose of society as a whole.

The nature and extent of the various types of crime will be investigated, including a comparison between crimes committed by the various ethnic elements of the population, and crime amongst these elements, especially sexual crimes. The population figures of the different races will be taken into account in order to determine further the approximate extent of crime and an attempt will be made to distinguish any particular patterns of criminal activity, such as during periods of economic depression.

This study will investigate the influence of legislation, police action and judicial sentencing on the rate of crime committed in the colony. The purpose of legislation is to control and prevent crime, and the passage of legislation gives an indication of the state of society at that time. It reveals the anxieties of the collective societal mind and throws light on those areas in which society is fearful of losing control. The agents of law enforcement, the police and the judiciary, also form an integral and important part of this study since they were responsible for ensuring the efficacy of the laws which were passed by the Legislative Council. It will be shown how these parties usually reflected the prevailing social ethos in the colony, although both acted independently on occasions. For example, at one time Durban's Superintendent of Police may have ordered his men to crack down on African drunkenness, while at another time vagrancy may have been perceived as a more pressing problem. In essence, the courts have the final influence in that judges usually hand down sentences intended both to punish and to prevent the occurrence of further crime. The judges of colonial Natal were no exception and usually found themselves responding to the particular concerns of society at any given time - for example, sentences imposed on Africans for sexual assaults upon white women were usually more severe during so-called "rape scare" periods. (50) These three influences are crucial to the criminal history of the colony.

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49. G.S. Dow, Society and its Problems (New York, 1934), p. 580.

50. The term rape scare refers to a specific period when the colony perceived itself to be threatened by a wave of

Social problems, arising in particular from early urbanisation in Durban and Pietermaritzburg, will also be considered, with special emphasis on how the colony's African, Indian and white populations interacted. These social problems include drunkenness, theft, prostitution and the related venereal diseases, insanitary habitations and overcrowding, domestic proximity between the races, vagrancy and other problems relating to the control of the colony's African and Indian inhabitants. Throughout the period under investigation, social problems in the Colony of Natal appeared to increase as society became more urbanised and more populous, and constantly redefined the norms and aims of that society. As with crime, social problems merely reflect the concerns of society. Indeed, if a particular social problem is perceived by society (in the case of colonial Natal, the dominant white community) as increasing and potentially dangerous, this problem is usually perceived as a crime and as such is legislated against. This phenomenon is clearly demonstrated in the Colony of Natal. The actions of Africans and Indians which were believed by whites to be detrimental to the interests of society were frequently redefined as criminal activity in order to impose control over 'undesirable' behaviour, which appeared to threaten the security and dominance of white society.

Social control refers to "that form of control which directs or governs the action of society or the groups that compose society. It is that control which determines the action of the group, rather than the action of the individual. As each individual is a member of several groups, he is always affected by such form of control, but he is affected as a member of a group, rather than as an individual." <sup>(51)</sup> In colonial Natal, social control meant the determination of the most effective means to be employed in order to control the status and behaviour patterns of the African and Indian elements of the population. Natal, and the towns in particular, were to be kept safe for the white man to enjoy with his wife and children. The upliftment of 'inferior' peoples could only be achieved if the undesirable or morally repugnant aspects of their behaviour were limited or eradicated. Social control was designed to ensure both physical and economic security for the white population and to achieve the civilization of the African and Indian populations.

Various stereotypes of Africans and Indians developed within the particular Victorian mentality of Natal's white settlers. Africans were perceived as being lazy and averse to labour, bloodthirsty and cruel, debased and sensual, and crafty and cunning. Civilization, Christianization and commercialization were considered necessary to

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criminal (sexual) assaults by African men on white women and minors.

<sup>51</sup>. G.S. Dow, *op. cit.*, p. 443.

upgrade the "kafirs" to the mantle of English political, economic, social and cultural competence. It was believed that the strong arm of the law would accomplish this most effectively. Indians came to be regarded as cunning, sharp-minded, lying and thieving characters who, while not of the same savage and uncivilised stock as the Africans, sometimes seemed to pose an even greater threat to white prosperity in that they threatened both white economic supremacy ('Free' Indians were successful traders, hawkers and market-gardeners, and could offer extremely competitive prices) and white standards of sanitation (Indians were regarded as 'filthy creatures' who lived under the most insanitary conditions). In general, Africans and Indians seemed to threaten the very social and moral fabric of white colonial society. This thesis will examine the nature of the controls introduced by white legislators to regulate the relations of white colonials with the other members of Natal's ethnic mix. The African and Indian response to these measures will also be considered, although the fact that the bulk of the sources was written by whites makes this a difficult task.

It is hoped that this study will shed light on how racial attitudes developed in the colony. An attempt will be made to explain the "cultural shock" that occurred when 'savage' African, 'cunning' Indian and 'morally upright' Victorian confronted each other in the peculiar social environment of colonial Natal. The responses of the various ethnic groups will be examined, in particular the response of the white settlers, since white legislators determined policy and white officials implemented it, and indeed, white writers recorded and interpreted these events. The paucity of sources which express African and Indian opinion is a limitation which is unavoidable.

Natal's white settlers brought with them from Britain certain Victorian attitudes. They also transmitted various social ills, such as prostitution and alcoholism, that had emerged significantly in the nineteenth century British industrial environment. This study will examine the attitudes which these Englishmen brought with them and the impact of colonial society on the indigenous, pre-colonial African society. In essence, it will argue that to a large extent, African drunkenness, prostitution and theft were a direct result of their encounters with white civilization, and were not caused by any moral defects in the African character as the settlers would have argued. It will also be investigated whether Natal's Indian population developed social problems unique to their location in Natal, as opposed to their places of origin in India. In general, it will be argued that the impact of the supposedly superior white culture on the cultures of the region's African and Indian peoples was essentially destructive in nature.

During the nineteenth century there had emerged in England an increasingly hostile attitude towards the so-called 'inferior' coloured races, especially the Negro. Although hostile British attitudes to other races had been evolving long before the Victorian era, racial attitudes changed and hardened during that era. Bolt has shown that this Victorian hostility towards black and brown peoples resulted mainly from greater contact with such peoples, and the series of shocks caused by the Indian Mutiny, "native" wars in New Zealand and South Africa, and the Jamaica Revolt of 1865. <sup>(52)</sup> Ethnologists and anthropologists seemed to produce scientific evidence of the white man's inherent superiority. The lurid and sensational tales of white travellers and explorers only served to reinforce this feeling. From the mid-nineteenth century Charles Darwin's writings on social evolution ('the survival of the fittest') were used by Victorians to justify both class rule and racial discrimination. After 1850 missionaries and anti-slavery workers, though still active, were less vocal in their protestations and the former often unwittingly revealed racist assumptions, while the racial problems of the Reconstruction period after the American Civil War attracted attention and reinforced prejudice in England.

Victorian attitudes to race were also profoundly affected by the presence in Britain of established non-white and white immigrant communities. These groups were regarded as 'strangers' and the results of contact with the Victorians seemed only to strengthen, on racial and other grounds, the Victorian dislike of 'alien' races encountered overseas. <sup>(53)</sup> The British educational system, self-image, class assumptions and sexual mores all played their part in influencing 'race-thinking' at home and abroad. <sup>(54)</sup> The Victorians, with their emphasis on middle-class morality, were disgusted by the perceived moral standards of Africans and Indians, believing that these groups acted without "moral restraint". British immigrants brought these kinds of racial attitudes with them when they came to Natal, although over the years they developed a more local racial mentality as they encountered new situations and problems - for example, racial interaction in Natal was far more frequent than it had been in Britain.

Lorimer has contended that the sources of mid-Victorian racism lay not simply in a direct response to the proponents of scientific racism, nor to the overseas needs of empire, but in the changing social and political climate of mid-Victorian England

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<sup>52</sup>. C. Bolt, Victorian Attitudes to Race (London, 1971).

<sup>53</sup>. C. Bolt, "Race and the Victorians", in C.C. Eldridge (ed.), British Imperialism in the Nineteenth Century (London, 1984), p. 135.

<sup>54</sup>. C. Bolt, Race and the Victorians, p. 136.

itself. <sup>(55)</sup> The perception of colour remained constant, but as perceptions of class shifted, so Victorian racism intensified. Lorimer's thesis will be considered within the context of colonial Natal. Victorian attitudes to both race and class will be examined and an attempt made to determine to what extent these social distinctions were operative in influencing the development of relations between the various ethnic groups in the colony. In particular, the development of white attitudes towards Africans and Indians will be examined, since the white race was politically dominant and therefore had the power to impose their own social mores and economic needs on subordinate groups.

The African "Social Pest" was perceived by the colony's white population as a serious social evil. <sup>(56)</sup> African men who appeared to threaten the physical and sexual security of white women and girls were regarded as "Social Pests" whom society needed to exterminate. These "Social Pests" were responsible for the peculiar phenomenon of rape scares. While these "Kafir Outrages" occurred (or were reported) throughout the period under investigation, two distinct rape scare periods can be distinguished: 1866-71 and 1886-7, both being periods of severe economic depression. While many of these 'assaults' may have been exaggerated or even imagined, there is no doubt that several were real and were regarded with absolute abhorrence by the white colonists. Swanson's suggestion that it is possible to establish a direct correlation between economic hard times and rising tensions in the "native" question will be investigated. Various other possible causes of these "Rape Scares" will also be considered, including a discussion of the nature of "moral panics", when "a condition, episode, person or group of persons emerges to become defined as a threat to societal values and interests." <sup>(57)</sup> Various theories were advanced to explain the motives behind "kafir outrages", though most observers seemed inevitably to trace the origins back to "kafir barbarism and degradation". It was believed that Africans from outside of Natal, the Amatonga in particular, were the prime culprits. Various solutions for the "social pest", which were advanced by Natal's colonists and legislators, will also be discussed. Rape Scares inevitably produced an outcry for new legislation to control and extinguish African aggression and licentiousness. In this regard, the two Bills of 1869 ("For the protection of women and female children" and "For better preventing the crime of rape") and the Rape Law (No. 27 of 1887) will be analysed in order to explain the white colonial mentality and their preoccupation with achieving a satisfactory control over the

<sup>55</sup>. D.A. Lorimer, Colour, Class and the Victorians (Leicester, 1978).

<sup>56</sup>. This emotional term was widely used in the colonial press during rape scare periods.

<sup>57</sup>. S. Cohen, Folk Devils and Moral Panics: The Creation of the Mods and Rockers (New York, 1980), p. 9. Cohen first defined the term "moral panic".

region's African peoples. The effectiveness of such legislation in preventing further 'attacks' will also be considered.

Rape or indecent assault is a difficult crime to assess since the social stigma attached to sexual offences means that many are not reported. The Victorian women of Natal harboured similar feelings which were exacerbated by the lack of judicial privacy in hearing such cases. There were also problems in identifying the assailants as it was argued that "all kafirs look the same." Despite these limitations, an attempt will be made to analyse the figures for criminal assaults in order to determine whether there was any rational basis for the waves of outrages which struck the colony's principal towns at irregular intervals. The women of Durban appeared to suffer more at the hands of these black sexual 'marauders' than their counterparts in Maritzburg. (Similarly, the Transvaal was virtually free of this social ill. The possible reasons for this distinction will be considered.)

The excessive use of alcohol was regarded as the source of most of the crime committed by Indians and Africans, and throughout the period under review various attempts were made to control or extinguish this social problem. The principal liquor legislation will be examined, in particular the Colonial Beer Law (Law No. 23 of 1863 which prohibited the sale of intoxicating liquors to Africans), the Native Liquor Law (Law No. 22 of 1878 which attempted to achieve a similar purpose) and the Indian Liquor Law (No. 20 of 1890 which aimed at regulating the sale and disposal of intoxicating liquors to Indians). However, the attempts at both legislative action and more effective law enforcement usually failed to produce the desired result, a corresponding decrease in drunkenness. The possible reasons for this failure will be considered. Convictions for drunkenness will be analysed in order to determine the approximate extent of this social ill, the effect of new legislation on the number of convictions, and any possible trends in the incidence of drunkenness. The causes of popular drunkenness will be examined, including both colonist perceptions and an attempt at a more objective analysis - for example, socio-economic conditions on the sugar estates and in the towns may have led to the consumption of increased quantities of alcohol. It will be argued that drunkenness was both a moral and an economic problem: white attitudes to popular drunkenness were governed by their concern that alcohol would demoralise the 'lesser' races and make them less fit for labour. White drunkenness, while a serious problem, remained relatively invisible beside African and Indian drunkenness, the colonists choosing either to ignore the high incidence of white drunkenness or condemning white drunks for having 'fallen' from society and for providing a poor example for Africans and Indians to follow. <sup>(58)</sup>

<sup>58</sup>. As late as 1890, the number of white convictions for drunkenness in the Borough of Durban still surpassed that

Victorian attitudes to drink and drunkenness will be discussed within the context of colonial Natal. The activities of various temperance movements in the colony will be examined, noting their essential failure to combat the 'ravages' of drink. In an age of self-help, the Government of Natal failed to provide any rehabilitation for alcoholics. The plethora of liquor legislation was aimed at control and prevention rather than cure.

Alcohol and beer assumed a new significance for Africans who moved into the urban environment. Traditional Zulu beer (*utshwala*) was both a staple food and an article of exchange, with symbolic significance for social relationships. In the 'white' towns, however, stronger drinks such as European spirits and the local African concoction *isishimiyana* became available, and economic opportunities for the sale of beer arose in the form of "kafir" beer-houses and eating-houses. In addition to the formal liquor sector, there were numerous opportunities for the conduct of an illicit trade in European liquors, *isishimiyana* and *utshwala*. This change in the traditional role of drink in Zulu society will be considered within the context of the overall decline in African moral standards which accompanied their move from a rural to an urban setting.

Vagrancy was also perceived as a growing social evil and by 1869 a law had been passed in order to control the 'hordes' of Africans who wandered throughout the borough and town at night, often it seemed, with criminal intentions.<sup>(59)</sup> This law was yet another means employed by the Natal Government to exercise control over the colony's African and Indian populations. The causes and incidence of vagrancy within the Borough of Durban will be examined and it will be shown that white public opinion was largely responsible for the creation of this social 'problem'.

From the 1870s onwards the problem of how to deal with the large numbers of "togt" or day labourers in the towns of Durban and Maritzburg confronted the colony's legislators. It was believed that these Africans, who were hired on a daily basis and enjoyed a considerable degree of bargaining-power, were responsible for much of the crime and disorder which threatened the security of whites in the urban areas. As a result of these fears, a "Togt" Law was passed in 1874 to impose stricter control over this section of the African population. Registration and barrack accommodation would be fundamental in achieving greater control. The success of the "togt" labour system will be discussed and criminal statistics used to show both the extent of police action and African resistance to these measures. "Togt" workers were an

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of Indian convictions, while African convictions only surpassed white convictions in 1893.

<sup>59</sup>. Law No. 15 of 1869 known as the Vagrancy Law.

economic necessity for white employers and the whole question of "togg" labour reveals most clearly the all-pervasive colonial feeling that Africans (and Indians) were necessary evils at best: they were acceptable as labourers only and in every other context were perceived as a threat to the success and stability of white society. Black people were required to distance themselves from white colonial society.

In 1888 African monthly servants were brought under a system of registration in order to prevent 'bad' characters entering into domestic service. As with the "togg" labour system, the control of the colony's more permanent labour resources was considered essential to future stability and security. The question of registration throws further light on the peculiar white settler psyche.

The widespread prevalence of prostitution and venereal diseases constituted a serious social problem for the colony's legislators and administrators. African women who moved into the urban areas were considered to be the primary source of moral evil and disease. Paradoxically, however, the attempts to control this perceived problem can best be described as feeble; the authorities never implemented any concrete measures designed to reduce this social ill and, despite two attempts, no Contagious Diseases Act was ever passed during the period under investigation. The possible reasons for this apparent apathy will be analysed within the context of Victorian attitudes to sexuality and women. This study will also analyse the statistics for cases of syphilis and gonorrhoea treated at various hospitals in the colony in order to determine the approximate prevalence of these social diseases and possible trends in their incidence.

It was the imported European civilization of the white colonists which introduced venereal diseases to the indigenous African population and led to the breakdown of traditional Zulu morality. <sup>(60)</sup> This thesis will examine this process in order to determine the reasons why African women and girls took to prostituting themselves in the colony's 'white' towns. It will also attempt to gauge the extent of such prostitution. The prevalence of white prostitution is even more difficult to assess because Victorian moral standards precluded the discussion and reporting of cases of such moral depravity. Of all the crime and social problems in colonial Natal, prostitution is the most difficult to assess because the sources, both official and unofficial, are largely reticent in their discussion of this social ill. The essentially Victorian mentality of the Natal colonist meant that the subject of sex and immorality was best avoided. White immorality, in particular, was considered to be an

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<sup>60</sup>. The term "traditional culture", as used in this study, refers to the culture of the region's indigenous Zulu population at the time of the earliest white colonization.

embarrassment to the 'superior' culture and was said to encourage African immorality and cause Africans to lose their inherent respect for the white man. For this reason, it remained conveniently invisible throughout most of the colonial period.

Problems of overcrowding and hygiene were frequently brought to the attention of the police and the sanitation authorities. Durban did not possess the infrastructure to accommodate the growing influx of population, especially a population with an ever increasing proportion of Indians and Africans. The hygienic standards of rural Africans who moved to the towns were unsuited to the urban, colonial society. Similarly, the insanitary state of many Indian shops and dwellings resulted in the Indian population being perceived as a "social leprosy". Whites wished to divorce themselves from the health and other dangers of racial proximity. The towns and their facilities were to remain the property of the 'superior', and therefore dominant, white culture. Much of the colonial period was devoted to the task of achieving this dominance through the establishment and maintenance of various mechanisms of control over the colony's African and Indian people.

It was decided to begin this study at 1860, both because of the paucity of sources before this date and in order to keep the scope of the thesis within manageable limits. The year 1860 was an extremely important year in the history of the colony since it marked the arrival of the first group of indentured Indian labourers, thus introducing a new ethnic element to the population which came to rival the economic dominance of the white population and their numerical superiority. The year 1893 was chosen as the end-point to this investigation because that year saw the political status of the colony change from that of an imperial Crown colony to self-government by the local white settler community. The power of political decision-making shifted from Whitehall colonial officials in London to white settler officials in Natal. This in turn affected the administration of Natal's African and Indian people dramatically. By 1893 the colony had developed to a significant extent, allowing the historian to consider crime and social problems from a developing society in the 1860s to the more developed society of the 1890s. The lengthy period of this study will hopefully enable trends to be detected and analysed.

Although this study will focus on criminal activity and social problems in the Borough of Durban, the Borough of Pietermaritzburg in particular and the colony generally will also be considered in order to construct a more holistic picture for the region as a whole. <sup>(61)</sup> The exact extent of crime can never be determined: many crimes are

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<sup>61</sup>. In general, the various sources contain far more material on crime and social problems in Durban than in Maritzburg. This is particularly true for the colony's newspapers: whereas the Natal Mercury is a veritable mine of

never detected, and even when crimes are discovered, many offenders are not apprehended. Sometimes criminals are freed because of the inadequacy of the law or the ability of his counsel, while innocents may be wrongly convicted. It is important, therefore, to be cognisant of the fact that criminal statistics do have their limitations and do not always portray accurately the prevailing levels of crime in a society. While they are important indicators of crime rates, they must be used cautiously, since a variety of factors such as changes in the law and fluctuations in judicial severity and policing can influence them significantly.

This historical study does not attempt to fit conveniently into the spectrum of the liberal-radical debate. It is written from an empiricist and materialist stand-point and seeks to examine the social, economic and cultural factors that brought on particular crimes and perceived social problems in the Colony of Natal. It rejects a slavish obedience to any particular school of historical methodology.

This final section of the introduction represents a short analysis of the most important sources used in the construction of this study. The Natal Blue Books (NBB) are probably the most fundamental of the official primary source material for any research into the history of colonial Natal. Up until 1883 they appear as single volumes, but from 1884 onwards include a second "departmental" volume in order to accommodate more fully the reports of various government departments. They furnish detailed statistical information on the prisoner occupancy of the colony's prisons, including the race and age-groups of prisoners, the number of previous committals and the number of prisoners employed in the course of the year for each individual prison. The reports of the Attorney-General are useful in that they provide some commentary (though often rather short) on the nature of crime in the colony for any particular year. These reports represent the official version of the Natal Government on crime in the colony, as opposed to the reports of the Resident Magistrates and the Superintendents of Police. The statistical tables annexed to the Attorney-General's report provide important information on the types of crime committed in the colony, the number of offences reported to the police and the number of apprehensions, convictions, acquittals and committals to the superior courts. The annual reports of the various Resident Magistrates for the different magistracies of the colony reflect the occurrence of crime and social problems in each particular area. Certain magistrates include detailed criminal statistics, while the figures furnished by others are scanty or non-existent. A further problem is that

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information, the Natal Witness is rather less enlightening. Whether this means that Durban suffered more from these problems than Maritzburg this thesis will attempt to determine.

different magistrates adopt different methods and categories for classifying crime, making comparisons between regions, or even over time within the same magistracy, a frustrating and difficult task. From 1869 the NBB provide statistical information on the various hospitals of Natal, including the types of diseases treated, the number of admissions, the races of those admitted and the number of discharges and deaths. Of particular interest to the social historian is the record of social diseases, primarily syphilis, venereal disease and gonorrhoea, as well as other diseases such as dysentery and pneumonia which shed light on the standard of living conditions. A brief report on the Lunatic Asylum in Pietermaritzburg is annexed to the report on the colony's hospitals. From 1880 onwards the annual report of the Protector of Indian Immigrants is contained in the NBB, providing the historian with some useful insights into the condition of the colony's Indian population. These reports comment on a wide range of subjects, such as master-servant relations, the deaths of Indians from unnatural causes, the reports of the various medical circles and returns for Indian hospitals, the condition of indentured and 'free' Indians, dakka smoking, health and social status. While he was an official of the colonial government, the Protector's reports do represent a more sympathetic account of Indian life in Natal. From 1880 a statistical return from the Secretary for Native Affairs appears in the NBB, providing information for each individual magistracy on the number of convictions of Africans in both civil and criminal cases. The reports of the Collector of Customs (from 1880) give some indication as to the quantities and values of alcohol imported into the colony. The reports of the Controller of Excise (from 1883) show the distilleries existent in the Colony, the quantity of spirits manufactured and include some general comments on the state of the liquor industry. The reports of the Registrar of the Native High Court (from 1884) provide some useful information on crimes such as cattle-stealing and faction fights. The reports of the Commandant of the Natal Mounted Police (from 1884) reflect the activities of the police in the rural areas in dealing with crimes such as stock-stealing and stabbing. As can be seen from the foregoing analysis, the Natal Blue Books provide a wealth of information for this study of crime and social problems in colonial Natal.

The debates in the Natal Legislative Council are an extremely useful source for contemporary issues. Up until 1879 they appear in both the Natal Witness and the Natal Mercury in summarized form, but thereafter are published *verbatim* in separate volumes. They provide important insights into the kinds of problems society was experiencing at any given time and also the kinds of solutions which colonial legislators deemed appropriate and necessary. Their ideas and thoughts on a wide range of issues are brought before the Council, reflecting the nature of the colonists' essentially Victorian mentality. These men frequently draw on factual evidence to support their arguments, thus contributing a valuable source of information for later

historians. The vested interests of various groups such as inland farmers, coastal (sugar) farmers and canteen owners are illuminated during the debates of the Council, a reminder to the historian that economic determinants so often provoked the moral and racial outbursts which characterised the colony's foremost legislative body.

The Natal Government Gazette contains copies of the various Bills introduced into the Legislative Council and those laws which were subsequently passed. The reports of various Commissions and Select Committees, proclamations, and the messages and instructions of government officials are also included, providing valuable insights into certain crimes and social problems in the colony.

The minutes of meetings of the Town Councils of Durban and Pietermaritzburg show the kinds of problems which were experienced at the municipal level. These include sanitary problems, accommodation (especially overcrowding amongst the Indians and Africans), drunkenness, vagrancy and law enforcement. The reports of the Superintendent of Police to the Town Council reflect the nature of crime and related problems in the Boroughs of Durban and Pietermaritzburg. The Inspector of Nuisances draws attention to a variety of social problems considered to be detrimental to the general well-being of the community. The annual minute of the Mayor of Durban, together with that of his Pietermaritzburg counterpart, provide an extremely useful summary of the main issues affecting the borough during the previous year. It includes the annual report of the Superintendent of Police with detailed statistics on the types of crime committed in the borough and often the classification of criminals according to race. Population figures are also included in this minute.

The *Natal Mercury* (62) is an invaluable source, particularly for the Borough of Durban. Of particular interest and importance are the editorials, which are frequently lengthy and detailed. They provide an in-depth commentary on the principal social problems and areas of criminal activity being experienced in the Borough at any time. Being an unofficial source, the *Natal Mercury* is far more liberal and outspoken than any of the official publications, but remains essentially shackled by the peculiar Victorian mores of white colonial society. In fact, it is the mouth-piece of the whites. These editorials provide both factual information (obviously selective) and a degree of interpretation. The letters to the editor are

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<sup>62</sup>. The Killie Campbell Africana Library has copies of these papers.

useful in that they reveal the kinds of issues which were close to the hearts of Natal's colonists. Their letters also show the depth of colonial feelings and attitudes, and provide factual evidence on various subjects. The Natal Mercury also reports on the cases heard in the Resident Magistrate's Court and gives detailed information on proceedings before the Circuit Courts, where the more serious crimes were tried.

The Natal Witness (63) is a valuable unofficial source for the Maritzburg area. As with the Natal Mercury, the editorials, letters, articles and details of court cases illustrate clearly the nature of crime and social problems in this area, and colonial attitudes on a wide range of subjects. The Natal Witness is not, however, as useful as the Natal Mercury, which for the purposes of this study is a more comprehensive source. Crime and social problems are reported less frequently in the Natal Witness, which suggests that either these phenomena were not as prevalent in the Maritzburg area or that they were less visible or law enforcement was less effective, or perhaps the reporters of the Natal Witness were less vigilant. This thesis will hopefully throw some light on this problem.

Various secondary sources were particularly useful in the construction of this thesis. Bolt's *Victorian Attitudes to Race*, Stedman-Jones' *Outcast London* and Lorimer's *Colour, Class and the Victorians* draw attention to the role and importance of race and class in Victorian society and help to explain the racist attitudes of Natal's white settlers. (64) Harrison provides a graphic picture of alcohol in the Victorian age in *Drink and the Victorians*, while Vicinus in *Suffer and be Still: Women in the Victorian Age* and Hellerstein in *Victorian Women* have described the social position of women in Victorian times. (65) These works on various aspects of Victorian society are extremely important for any study of Natal's colonial society in that they provide important insights into the very nature of the white colonial mentality. Dow's *Society and its Problems* and Phelps' *Contemporary Social Problems* detail the types of

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<sup>63</sup>. The Natal Society Library has copies of these papers.

<sup>64</sup>. C. Bolt, *Victorian Attitudes to Race* (London, 1971); G. Stedman-Jones, *Outcast London: A Study in the Relationship between Classes in Victorian Society* (Oxford, 1971); D.A. Lorimer, *op. cit.*

<sup>65</sup>. B. Harrison, *Drink and the Victorians* (London, 1971); M. Vicinus (ed.), *Suffer and be Still: Women in the Victorian Age* (London, 1972); E.O. Hellerstein *et al* (eds.), *Victorian Women* (Stanford, 1981).

problems which confront societies and the ways in which society reacts to perceived threats. (66) Certain general sociological works on race and class helped to elucidate the problems involved in the study of social structures. These include Baxter and Sansom's Race and Social Difference, Rex's Race Relations in Sociological Theory, Berreman's article on "Race, Caste, and Other Invidious Distinctions in Social Stratification" and Sivanandan's article on "Race, Class and Power: an outline for study". (67) Various works on crime provide some important insights into the study of crime generally. These include Gurr's The Politics of Crime and Conflict and Gatrell's Crime and the Law. The Social History of Crime in western Europe since 1500. (68) The use and value of criminal statistics is well illustrated by Gatrell and Hadden. (69) Works on criminal activity in Victorian England are important in providing a comparative analysis with crime in colonial Natal. They reveal the extent to which Natal's European settlers transmitted various crimes and social problems into the colony. These studies include Chesney's The Victorian Underworld and Tobias' Crime and Industrial Society in the 19th. Century. (70) The breakdown in traditional African culture and morality due to increased urbanisation and contact with the European culture has been described by Little, African Women in Towns, Hafkin and Bay, Women in Africa and Longmore, The Dispossessed. (71) These works provide important parallels with the similar process which occurred in colonial Natal. The James Stuart Archive records the testimonies

<sup>66</sup>. G.S. Dow, op. cit.; H.A. Phelps, op. cit.

<sup>67</sup>. P. Baxter and B. Sansom (eds.), Race and Social Difference (Harmondsworth, 1972); J. Rex, Race Relations in Sociological Theory (London, 1983); G.D. Berreman, "Race, Cast and Other Invidious Distinctions in Social Stratification", Race, Vol. 13, No. 4, 1972; A. Sivanandan, "Race, Class and Power: an outline for study", Race, Vol. 14, No. 4, 1973.

<sup>68</sup>. T.R. Gurr et al (eds.), The Politics of Crime and Conflict (Beverly Hills, 1977); V.A.C. Gatrell et al (eds.), Crime and the Law. The Social History of Crime in western Europe since 1500 (London, 1980).

<sup>69</sup>. V.A.C. Gatrell and T.B. Hadden, "Criminal Statistics and their Interpretation", in E.A. Wrigley (ed.), Nineteenth-Century Society: Essays in the use of Quantitative Methods and Study of Social Data (Cambridge, 1972).

<sup>70</sup>. K. Chesney, The Victorian Underworld (London, 1970); J. Tobias, Crime and Industrial Society in the 19th. Century (New York, 1967).

<sup>71</sup>. K. Little, African Women in Towns: An Aspect of Africa's Social Revolution (Cambridge, 1973); J. Hafkin and E.G. Bay (eds.), Women in Africa (Stanford, 1976); L. Longmore,

of numerous respondents to the interviews of a white settler and helps to explain the enormous impact which the European culture had on the traditional culture of the colony's indigenous African people. <sup>(72)</sup> Finally, Webb's Guide to the Official Records of the Colony of Natal is an invaluable source of reference for the historian of colonial Natal. <sup>(73)</sup>

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The Dispossessed. A Study of the Sex-Life of Bantu Women in Urban Areas in and around Johannesburg (London, 1959).

<sup>72</sup>. C. de B. Webb and J.B. Wright (eds.), op. cit.

<sup>73</sup>. J. Verbeek et al (compilers), Webb's Guide to the Official Records of the Colony of Natal (Pietermaritzburg, 1984).

## CHAPTER TWO

### THE HISTORICAL BACKGROUND: NATAL BY THE MID-1800S

Before any examination of crime and social problems in colonial Natal during the period 1860 to 1893 can be undertaken, it is important to place this study in its historical and social context. The history of the region, in particular the infusion of new racial elements and the introduction and development of racial attitudes, exercised a significant influence on people's attitudes and their actions during the years after 1860. To a large extent, the white colonial 'mind' evolved as an amalgam of the cultural 'baggage' the settlers brought with them from the mother country, and their early experiences in organising a vast territory in which they represented a tiny but very distinctive minority of the population.

In the twentieth century the majority of African people south of the Limpopo have come to be classified under two broad generic labels - Nguni and Sotho. Both terms refer to groups who display linguistic and some cultural similarities. For the sake of convenience, the Nguni can be divided into a northern group - essentially the Zulu and the Swazi - and a southern group - including the Xhosa, the Thembu, the Mfengu, the Mpondo and the Mpondomise. The Sotho subdivide into three main groups: the western Sotho, or Tswana; the northern Sotho, comprising the Pedi and Lobedu; and the southern Sotho, or Basotho, who occupy present-day Lesotho and adjacent areas.

The Nguni-speaking people who finally settled in Natal were far more technologically advanced than the nomadic Bushman hunters. <sup>(1)</sup> Their culture revolved around cattle, which were of fundamental importance, both economically and socially. It was cattle which, by the institution of *lobola*, regulated marriage and family relationships, and they were also intimately connected with tribal religion. <sup>(2)</sup> While the men herded the cattle, the women were responsible for the agricultural activity, millet and maize being the principal crops. With an abundance of game to hunt in addition to their

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<sup>1</sup> E.H. Brookes and C. de B. Webb, op. cit., p. 2. In the colonial period the term Natal referred to a geographical area situated between the Drakensberg mountains to the west and the Indian ocean to the east, and bounded in the south by the Umzimkulu River and in the north by the Umzinyati (Buffalo) - Tugela Rivers. J. Bird, The Annals of Natal, Vol 2 (Pietermaritzburg, 1888), pp. 465-6.

<sup>2</sup> *iLobola* refers to the cattle or goods handed over in a marriage transaction by the man's family to the father or guardian of the woman.

regular food supplies, the Natal Nguni were able to live in a reasonably comfortable state, and a considerably higher level than their predecessors. Socially they were a well-organised people, possessing both an elaborate system of law and adequate political institutions. Generally one's position in society was determined by birth, although every woman was bound to the guardianship of some man for the entire period of her life. The passage of cattle regulated her transfer from her father's family to that of her husband. "A deep *pietas*, reinforced by law, protected age and station."<sup>3</sup> It was the Zulu who formed the bulk of the African population of the Colony of Natal which seemed to threaten the white settlers on a number of fronts. White colonial administrators referred to this phenomenon as the 'native problem'.

The first permanent white settlement in south-east Africa was established at Port Natal in 1824 under the leadership of two Englishmen, Francis Farewell and Henry Francis Fynn. Accompanied by four other adventurers from the Cape Colony, they acted as agents for Cape merchants who sought a large and ready market among the Zulu, from whom they could obtain ivory, hides and maize. They hoped to develop a flourishing trade with the northern Nguni and so capture some of the trade that was then flowing through Delagoa Bay.<sup>4</sup> Recognizing that they were existing beyond the protection of British law, which was limited to the confines of the Cape Colony, Farewell wrote to Lord Charles Somerset, the Governor of the Cape Colony, urging the annexation of the Port Natal region, but Somerset, in line with Colonial Office policy, refused to sanction any efforts by Farewell to lay claim to the area and implied that the traders would have to depend upon their own resources in dealing with the indigenous peoples.

Pending a reply to their request, in August 1824 Fynn and Farewell opened communications with the Zulu King Shaka, and obtained permission to occupy and exercise authority over the land surrounding Port Natal. Even at this early stage, it was clear that any permanent settlement would have to receive his stamp of approval. By obtaining permission to trade and live in the area, they had, in effect, recognized the overlordship of the Zulu king. For his part, Shaka regarded the white traders as 'client-chiefs' and expected them to render 'service' to the Zulu state, like other tributary chiefs who fell under Zulu political hegemony. In these early days the position of white settlers was decidedly subordinate to that of the indigenous African population, a position that was to change dramatically in the ensuing decades.

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<sup>3</sup> E.H. Brookes and C. de B. Webb, *op. cit.*, p. 2.

<sup>4</sup> C. Ballard, 'Traders, Trekkers and colonists', in A. Duminy and B. Guest (eds.), *op. cit.*, p. 116.

Within six months of the establishment of the first permanent white settlement at Port Natal, northern Nguni refugees from the north began to congregate around it. Shaka's wars of devastation (the so-called *mfecane*) had depopulated the vicinity and had caused a severe dislocation of chiefdoms, the repercussions of which reverberated throughout south-east Africa. These African refugees, in the knowledge that the white traders had been given permission to settle, saw them as a source of protection from the terrors of Shaka's might and a means to a better livelihood. The traders responded positively, organizing the refugees along African political lines and separating them into villages which acknowledged individual traders as their chiefs. The traders were too few in number and lacked the resources to impose a European-style, metropolitan system of government over them. Henry Fynn, John Cane and Henry Ogle each became chief over three homesteads.

After 1832 other traders from British settlements in the eastern Cape joined the settlement, so that by 1838 the white population numbered approximately forty. Many brought their Khoikhoi (Hottentot) retainers with them and used them in their traditional roles of hunters, interpreters and transport-riders. Several of the new arrivals assumed positions as chiefs over various homesteads and gathered refugees and fugitives from the Zulu kingdom as their clients.<sup>5</sup>

A striking social characteristic of the settlement was the almost total absence of white women. The early settlers frequently took wives and concubines from the indigenous African population. In consummating these relationships, they often adhered to traditional Zulu marriage customs, situating their wives' huts around their residences. Several white chiefs took their adoption of Zulu custom a step further: they engaged in the practice of *lobola*, which entailed the payment of the bride price in cattle. While the white population of Port Natal adapted to the culture of the Nguni-speaking people, their European values, in turn, made a permanent impression on African society. Ballard has captured the essence of this process:

Just as the Industrial Revolution had transformed the economy and society of Britain, so too an indelible feature of British imperialism was the introduction of European material culture, Christianity and a capitalist ethos into non-European societies. This transmission was achieved through a multitude of agents as British traders, officials, missionaries and settlers made contact with the aboriginal inhabitants. British rule in south-eastern Africa thus inaugurated an era of major transformations for the region and its inhabitants.<sup>6</sup>

<sup>5</sup> C. Ballard, *op. cit.*, p. 118.

<sup>6</sup> C. Ballard, *op. cit.*, p. 116.

The African refugees who had arrived at Port Natal were destitute, having been deprived of both wealth and status through the loss of their cattle. In order to survive, they were forced to rely to an even greater extent on hunting, fishing and agriculture. This situation suited the white traders since the regular supply of locally-produced foodstuffs enabled them to devote more time and energy to their trading activities. African agriculturalists also freed them from the need to import expensive supplies from Algoa Bay or Cape Town. The influence of the white traders on the Zulu kingdom, however, was much less significant than the effect on African refugees around the Port, as Shaka and his successor Dingane would not allow them to trade directly with their subjects. <sup>(7)</sup>

These early settlers, living as they did a rude and rugged existence, have been accused of 'immorality' by contemporary and later writers. Gardiner was reportedly shocked by instances of settler 'immorality'. MacKeurtan describes the moral condition of these early white settlers as follows: "Some of the whites were no doubt filibusters; they lived in rough places, played a hard game, and walked in wild ways....The morals of some were also open to grave question, especially if one chose to forget their circumstances." <sup>(8)</sup> Of all the settlers in the early years, only Farewell had his wife with him. While it is impossible to estimate the frequency of intercourse with African women, it is likely that both lasting relationships and casual affairs were perpetuated by English settlers. Two chiefs on the Natal South Coast today bear the surnames of two of the earliest settlers. <sup>(9)</sup> Bryant also draws attention to the liaisons which developed between the races: "Though Rachel, the Hottentot lady they [early settlers such as Fynn, Farewell, Cain and Ogle] had brought with them, no doubt proved a useful servant, it was but natural that these strong men in the prime of manhood, with no females of their own race and colour to share with them the cares and calls of life, should have indulged in amorous liaisons with Native belles and left a yellow progeny to perpetuate their name." <sup>(10)</sup> Gardiner accused the settlers of irritating Dingaan by removing women from his dominions to the Port. He accused the bulk of them of "notoriously living in a very immoral state." <sup>(11)</sup> He said that they dwelt mainly in a disgraceful way, having no tables and chairs, and sometimes fired at each other. Isaacs' description of Fynn suggests that even in their clothing these Englishmen existed beyond the confines of traditional morality back home: "His head was covered with a crownless straw hat, and a tattered

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<sup>7</sup>. C. Ballard, *op. cit.*, p. 119.

<sup>8</sup>. G. MacKeurtan, *op. cit.*, p. 189.

<sup>9</sup>. E.H. Brookes and C. de B. Webb, *op. cit.*, p. 20.

<sup>10</sup> A.T. Bryant, Olden Times in Zululand and Natal (London, 1929), p. 567.

<sup>11</sup>. G. MacKeurtan, *op. cit.*, p. 189.

blanket fastened round his neck by means of strips of hide served to cover his body, while his hands performed the office of keeping it round his nether man." (12)

It is thus well documented that Natal's early white settlers brought a rather loose morality with them and imparted many of their sexual practices to the indigenous African population. Although observers such as Gardiner and MacKeurtan believed that the immorality of these settlers was rooted in their intercourse with *African* women, such relationships do not constitute immorality to most rational observers. The real immorality lay in the fact that these sexual encounters were usually engaged in out of wedlock and involved full, penetrative intercourse which was contrary to the customs of the Zulu people, who only permitted external sexual intercourse (*ukuhlobonga*) between unmarried couples. From the very beginning, therefore, the moral condition and customs of local Africans were corrupted by the perceived immoral usages of the white man. The road to widespread African immorality and prostitution in the white towns did not take long to travel. The great irony is that while the white settlers, pregnant with all the arrogance of their supposedly superior Anglo-Saxon culture, condemned Natal's African population for their barbaric, sensuous and lascivious behaviour, it was they who were responsible for the dilution and virtual demolition of the pre-colonial Zulu culture, which historically had provided a host of checks and balances against unrestrained sexual behaviour. While in the process of destroying most of these safeguards, the whites were quick to point to instances of "kafir immorality", failing to discern the inherent contradictions in their reasoning. (13)

As the colony marched down the road towards a more 'civilised' state, so the distrust and hostility felt by the ruling white race towards African people began to increase. Their attempts to impose their culture on that of the local Nguni-speaking people and their determination to control Natal's massive African population, meant that the initial co-operation between the races, to the extent that it existed, became submerged in dominance and exploitation. African people came to be seen, not as partners in the development of a young colony, but as obstructing the development

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<sup>12</sup>. N. Isaacs, Travels and Adventures in Eastern Africa, Vol. 1, (Cape Town, 1970), p. 32.

<sup>13</sup>. The name "Kafir" was originally given by Muslim explorers to the East Coast Natives, signifying in Arabic "heathen or unbelievers". In these terms, Natal's indigenous African people were "kafirs". But the Zulus and other aboriginal tribes of Natal regarded this foreign term as a stigma and a reproach, implying a people without a chief, country, or tribal status, like mongrels or slaves. Instead, they preferred to be called "Bantu", from the Nguni term *abantu* meaning "the people". More recently, the description "African" has been favoured. The term "Kafir" has only derogatory implications.

of that colony. At best they appeared to represent a vast reservoir of cheap, unskilled labour, but their reluctance to work for the white man was a source of continuous frustration to the colonists. The increasing incidence of African drunkenness, prostitution and property crimes during the period 1860 to 1893, which was a direct result of contact with the imported European civilization, meant that the perceptions which whites held about the region's African people were generally negative and detrimental to the promotion of goodwill between the races.

On 23 June 1835 Gardiner presided over a meeting of 15 settlers at which it was decided to set up a town called D'Urban, in honour of Sir Benjamin D'Urban, Governor of the Cape. The settlement as a whole was to be named Victoria, in honour of Britain's Princess Victoria. Strict rules were drawn up for the conduct of business and the maintenance of urban standards. Grass and reed huts were no longer permitted, except for African servants. A fund was set up for clearing the bush and for town improvements, and a further fund for building a church and a school. A Town Committee was set up consisting of Gardiner and Messrs. Collis, Berkin, Cane and Ogle, but it is not known whether they ever met. The fifteen, together with fifteen additional signatories, requested Sir Benjamin D'Urban to annex "Victoria" and to appoint a Governor and Council to work with a House of Assembly elected by the settlers. But the Secretary of State for the Colonies, Lord Glenelg, informed D'Urban that "Her Majesty's Government are so persuaded of the inexpediency of engaging in any scheme of colonisation or of acquiring any further territory in South Africa, that the Secretary of State feels himself precluded from offering any encouragement to the project." <sup>(14)</sup> While the settler proposal had probably been greatly over-ambitious, considering the undeveloped state of the settlement at that time, at least the ideals of civic order and self-government had been introduced to this tiny community. Gardiner had been the main motivator behind this enterprise.

Although the little settlement had made steady progress during the first decade of its existence, gradually attracting new settlers into its ranks, by 1835 there was still only a single dwelling at the Port which had the semblance of a European house and this was built of reeds and mud. <sup>(15)</sup> The homes were all carefully concealed among the bush and approached by narrow, winding avenues. Port Natal was characterised by scratch agriculture in small clearings in the bush, and a scattering of flimsy shelters, "adequate for the needs of birds of passage, but holding no promise of permanence." <sup>(16)</sup>

<sup>14</sup>. J. Bird, *op. cit.*, Vol.1, p. 315.

<sup>15</sup>. G. Mackeurton, *op. cit.*, p. 172.

<sup>16</sup>. *Natalia*, No. 4, Dec 1974. Editorial by C. de B. Webb, p. 6.

On 31 May 1844 Natal was annexed as an autonomous district of the Cape Colony, the British having defeated the power of the Boers in the region. The new British colonial administration, which took office in December 1845, was headed by a Lieutenant-Governor, assisted by a Colonial Secretary, a Crown Prosecutor, a Diplomatic Agent to the Native Tribes, an Attorney-General, the commander of the Garrison and several appointed members of the settler community. The posts of Colonial Treasurer, Postmaster and Registrar of Deeds were assumed by the Surveyor-General, reflecting the caution and extreme economy exercised by the British Parliament over Colonial Office finances. The Lieutenant-Governor was subordinate to the Cape Governor, while the Natal Executive Council, composed of the Lieutenant-Governor and his top-ranking officials, was not empowered to pass legislation: this was the prerogative of the British Parliament or the Cape Legislative Council. <sup>(17)</sup> The franchise was limited to white males over the age of 21, a situation which banished white women and all black people to the political wilderness, depriving them of any voice in matters which affected them directly. While the Executive Council was appointed by the British Government in London, the Legislative Council was elected by the local electorate and generally comprised the wealthy and influential members of the commercial and farming community, eager to safeguard and extend their own economic interests. Even the Executive Council enjoyed only limited powers and was required to answer to the Secretary of State for the Colonies in London, whose duty it was to implement the imperial policy of the metropolitan government. In essence, the Colony of Natal was forced to succumb to direct rule from Britain for a period of 50 years. The political system was based on the principle of "top-down" rule. Democracy was a myth since the vast majority of the region's people were deprived of a political voice. Even the political contribution of white males was stunted because the Home government monopolised the reins of political decision-making.

The administration of a vast indigenous African population was the principal problem facing the colonial administrators in Natal throughout the nineteenth century. After entering the public service of the Cape Colony, Theophilus Shepstone had been appointed Diplomatic Agent to the Native Tribes in Natal, where he soon exercised a remarkable influence. He dominated the 1846 Locations Commission appointed to resolve the conflicting land claims of the trekkers, and to establish a system of African administration, but the system which evolved, known as the 'Shepstone' system, was very different to that recommended by the Commission. Fluent in Zulu and Xhosa, and with an intimate knowledge of African law and custom, Shepstone became a key figure in the administration, and in 1856 was appointed Secretary for

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<sup>17</sup>. C. Ballard, *op. cit.*, p. 125.

Native Affairs. Between 1846 and 1876 he entrenched his control over all aspects of "native policy" in the colony, secure in the knowledge that his judgement on "native" affairs was unlikely to be challenged by the various Lieutenant-Governors sent out to Natal.

Shepstone supervised the movement of nearly 80 000 Natal Africans into seven locations during the years 1846 and 1847, the remainder of the land being cut up into farms for white ownership. They were to be governed according to their own traditional laws, administered by the chiefs themselves with the assistance of white "Native Magistrates", and with the right of appeal to the Secretary for Native Affairs in his capacity as '*induna*' to the Supreme Chief, the latter being the Lieutenant-Governor of the colony. The protection which Shepstone provided earned the gratitude of numerous refugees who had returned to Natal after the 'Shakan revolution', and for nearly thirty years maintained the peace without making any demands on the imperial exchequer. Indeed, the 'Shepstone' system generated substantial revenues of its own through various forms of taxation. Many white settlers, however, strongly criticised Shepstone's policy on the grounds that the reserve areas were too large. As the development of farming began to generate a need for labour, white farmers complained that the 'abundance' of land available to Africans made them economically independent and unwilling to enter the employ of white settlers.

John Bird, <sup>(18)</sup> who arrived in Natal in December 1846, described his new home as being "almost a desert...the first thing noticed by a new comer [was] the paucity or absence of population in a land the beautiful aspect of which bespoke its being rich in natural advantages." <sup>(19)</sup> There were few English residents at this time and these were nearly all at D'Urban, the remnants of the adventures of the previous 20 years, men who had come as explorers, or for the sake of sport or profit in the destruction of the numerous elephants living in the woods near the coast, or to trade with the Zulus in furs or ivory. Three or four mercantile men were apparently watching events which might favour commercial enterprise. *In toto*, D'Urban had less than two hundred inhabitants living in cottages set far apart from each other. <sup>(20)</sup> For such a

<sup>18</sup>. Bird (1815-96) is one of colonial Natal's most familiar figures. He was involved in the setting up of the earliest administration and served as a Resident Magistrate. In 1878 he served as Judge of the Native High Court and retired from the bench and from government service in November 1879. He is best known for his Annals of Natal, published in two volumes in 1888.

<sup>19</sup>. 'Natal: 1846 - 1851', Natalia, No. 1, Sept 1971. This article was first published as a pamphlet by P. Davis and Sons in 1891 as the work of "An Old Inhabitant".

<sup>20</sup>. J. Bird, op. cit., p. 7.

small village, Old Durban contained a remarkable number of stores, which served not only passing ships, but also conducted a barter trade with farmers (mostly Voortrekkers) and local African tribes. There was also an extraordinary number of canteens (public bars), which caused guardians of the public health to fear for the lives and morals of the town's inhabitants. Some of these haunts, such as the "London Tavern" in Union Street, were regarded as places of disrepute by refined Durban folk, and out of bounds for "nice young ladies". The advocates of Temperance, however, were already at work and in 1846 a branch of the Temperance Society of the 45th Regiment was set up. But by 1850 the number of drinking places had increased and the temperance cause continued to take a battering throughout the colonial period.

Durban was characterised as a "miserable place" in 1850. <sup>(21)</sup> Although after the final British occupation, Stanger, the Surveyor-General, had thoroughly surveyed the town and laid it out properly, there were hardly any edifices worthy of the name of buildings. The centre and commercial 'hub' of the place was a wattle and daub thatched store run by Cato. In addition, there was a black-smith's, and a butcher's shop, while a Wesleyan chapel and mission house were "buried in the trees" and a few other "ramshackle structures" were scattered about. In Bulpin's words, "There was nothing else." <sup>(22)</sup> Trade consisted largely of imports to supply the inland republics and Zululand. The principal exports were meat, butter, maize and beans sent to the sugar plantations of Mauritius, while hides and ivory principally from Zululand, were sent to England. Virtually everything was in chronic short supply, including clothes and shoes. Food, however, could be obtained cheaply from local African farmers, and included pythons, young monkeys, cane rats, porcupines and iguanas, all of which became standard articles of diet alongside more 'conventional' foods such as beef, venison, fowls, (at 3p or 6p each), pumpkins, calabashes and water melons (at similar prices), mealies, beans and milk. Workmen received six to eight shillings per day, most of the public works being done by the men of the garrisoning 45th Regiment, who were described as a "crowd of hard cases". <sup>(23)</sup> In these early days the "benefits" of "kafir" labour had not yet been realised, but as the demand for labour increased, so Natal settlers looked increasingly towards the region's African (and later Indian) peoples. There were no other entertainments besides the grog shops, where the military, in particular, "brawled and dined away their pay." <sup>(24)</sup> A few so-called 'hotels' grew up to meet the demands of the settler

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<sup>21</sup>. See T.V. Bulpin, Natal and the Zulu Country (Cape Town, 1966), pp. 164-171 for an interesting narrative of Old Durban.

<sup>22</sup>. T.V. Bulpin, op. cit., p. 168.

<sup>23</sup>. Ibid.

<sup>24</sup>. Ibid.

influx. These were shabby places at first, made from the customary wattle and daub. "Besides human guests at five shillings a day, a variety of ants, bugs, snakes and other creatures stayed in them for nothing." <sup>(25)</sup> This, then, was Durban in 1850. It was hardly a place likely to attract immigrants, but, almost miraculously, it grew into something more substantial and attractive in the ensuing decades.

The Rev. William Holden, a Methodist minister, who arrived in Natal around 1850, described the social condition of Africans on his arrival. At this time there was no minister or missionary within ten or fifteen miles of the village of Durban for either white or African. Within this area, were "thousands of Kafirs, the kraals being numerous, and many men and boys working in the town and on the Beach." All were in a state of "perfect barbarism....they were simply naked barbarians, living and rioting in all the abominations of heathenism." <sup>(26)</sup> African servants, who were called "boys", <sup>(27)</sup> varied in age from 15 to 25, but they all went around in a state of complete undress, except for "a few tails of wild animals hanging from the loins." <sup>(28)</sup> Even those who were employed in European families, or worked on the premises, were remarkable for their almost total lack of clothing: "These unclothed young men nursed the white children, and did the cooking and washing in English families, so far as these duties were not performed by the mothers and daughters themselves. It was a rare exception to see a man with a shirt on. The Kafir young women were in a similar state; but as a rule they were not allowed to come and work in the village." <sup>(29)</sup> In the evenings these men often assembled to sing and dance, their merriments lasting until late at night or even the early hours of the morning. As early as 1850 a precedent had thus been established whereby African men, not women, would provide the overwhelming majority of the domestic (and other) labour requirements of Natal's white settler population.

Settler attitudes to these naked "savages" should be seen within the broader context of South Africa, especially events in the Cape Colony. In 1850 the "Kafir War" of 1850-54 broke out, and although the scene of outbreak was four hundred miles distant, the passions and fears of Natal's white settlers were deeply aroused. The intervening country was occupied by kindred tribes and in Natal itself the African population outnumbered the white inhabitants by twelve to one. Immediately beyond

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<sup>25</sup>. T.V. Bulpin, op. cit., p. 169.

<sup>26</sup>. Cited by G. Russell, op. cit., pp. 105-6. W.C. Holden, History of Methodism and missions in South Africa, Part II, (London, 1887), p. 431.

<sup>27</sup>. Mentally, "kafirs" were regarded as children. Hence the terms "boy" and "girl" emerged and have survived right down to the present day.

<sup>28</sup>. W.C. Holden, Methodism, p. 431.

<sup>29</sup>. Ibid.

Natal's northern border lived the Zulu people, a race of warriors, who had already carried death and devastation into the colony. The massacres which followed the great Boer "trek" into Natal were still "vivid and ghastly memories".<sup>(30)</sup> As recently as 1838 more than 600 men, women, and children had been surprised and slaughtered on Natal soil by the hordes of Dingaan. A few weeks later the handful of British settlers on the coast had also been slain in combat by Zulu warriors and the few survivors had been forced to shelter on a ship anchored in the bay.<sup>(31)</sup> Robinson says they were forced to take refuge on a small island in the bay, presumably Salisbury Island.) Less than five years before these events settlers on the Cape frontier had been slain and their homesteads destroyed by insurgent "kafirs". Tales were rife of atrocities committed upon helpless women and children by savage assailants. The older settlers told the raw immigrants of their own tragic experiences "in language whose vividness did not suffer by repetition."<sup>(32)</sup> It seemed that at any time, later arrivals could suffer similar experiences. The naked "kafirs" whom they encountered continuously in their daily lives, were a constant reminder of these grim possibilities.

The only garrison in Natal was a small force of Imperial infantry, about 400 strong. Except at Pietermaritzburg, forts and rallying-places were unknown, the white settlers being unarmed and unorganised. Under such circumstances, filled with hopes, tensions and fears, it is not surprising that Natal's white settler community perceived the local African population in a suspicious and generally negative manner. In later years their feelings would often develop into fuming hostility as blacks were regarded increasingly as a threat to British institutions and British standards of civilization.

At this time there were no rules or regulations to restrain the actions of anyone, black or white:<sup>(33)</sup> "The natives roamed the so-called roads or footpaths in unbridled freedom, shaking their assegais, shouting their war songs, or brandishing their clubs and sticks as they stalked along, the embodiment of bloodthirsty barbarism. Far into the night they would chant their eerie songs, which blended with the dreams or disturbed the slumbers of their white neighbours and kept alive the day's alarms."<sup>(34)</sup> The residents of Durban complained that "kafirs" disturbed the peace and solitude of their English-style existence. The Durban Town Council reported in 1858

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<sup>30</sup>. Sir J. Robinson, op. cit., p. 23.

<sup>31</sup>. Ibid.

<sup>32</sup>. Ibid.

<sup>33</sup>. As the Colony of Natal matured, however, the control of the region's African and Indian people became a cornerstone of (white) Government policy.

<sup>34</sup>. Sir J. Robinson, op. cit., p. 24.

that: "We have several complaints, which we can also personally confirm as to the horrible noises - both by social shrieking parties and by yells on private account - which the town kafirs are allowed to indulge in nightly, near the habitations of our townsmen, and along the public streets. These unearthly noises last often till midnight...." <sup>(35)</sup> The regulation against carrying arms was also "entirely disregarded" by Africans, assegais and knobkerries "being universally and openly borne about the streets." <sup>(36)</sup> The Council was of the opinion that "A much more stringent system of police surveillance is imperatively demanded." <sup>(37)</sup> Throughout the colonial period, particularly in the later years as the size of Natal's urban black population increased, white settlers and administrators were vociferous in their calls for an increased and more effective police presence.

In these early days crime was not considered much of a problem, while social problems were virtually non-existent in such an inchoate society. Nevertheless, the seeds of future conflict were already evident in the 1850's, and in the ensuing decades as more blacks flocked to the towns and there was greater contact between the races, and as the labour needs of whites increased, these problems were exacerbated and became more visible, and the subject of wide-ranging debate and anxiety.

Irrespective of the negative attitudes held by white settlers towards blacks, they became increasingly reliant on African labour. The respectable skilled artisan from Britain, having some education, enterprise, tools, and a little capital, soon set up his own workshop. He took on additional labour, usually white, and gradually developed into a master-tradesman. In this way regular shops were established for carpenters, bricklayers, blacksmiths, and wagon builders. A few individuals found employment as bakers, butchers, boatbuilders, painters, printers, saddlers, sawyers, tinsmiths, thatchers and carters. Furniture and shop fittings were also in great demand. As a natural consequence of this busy industry, the settler soon required further assistance in the form of cheap labour and found the African to be a capable, though not always willing, hewer of wood and drawer of water.

Except for "God", the most popular word in the Victorian vocabulary was undoubtedly "work". It was not only the means by which some of the central ambitions of a commercial society could be realized - money, respectability and success -, but it also became an end in itself, a virtue in its own right. This did not mean that one was not allowed to relax. Allowance was made for recreation, but it

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<sup>35</sup>. Meeting of Durban Town Council, reported in NM, 8 April 1858. Cited in G. Russell, op. cit., p. 349.

<sup>36</sup>. Ibid.

<sup>37</sup>. Ibid.

was intended only to strengthen men for the work to come. "The glorification of work as a supreme virtue, with the accompanying scorn of idleness, was the commonest theme of the prophets of earnestness; for the full meaning of a life of work was identical in outward action (apart from the internal discipline of the character) with a life of moral earnestness." <sup>(38)</sup> Victorians considered that the Christian had an obligation not only to work (as opposed to being idle), but to work in the right spirit - that is, with the sense of having a purpose or mission for which he has special gifts and to which he was dedicated. By working he not only served God, but himself because he developed his God-given talent. <sup>(39)</sup>

The Victorians saw leisure as "the occasion of all evil"; Satan would find "work" for idle hands to do. <sup>(40)</sup> Idleness was thus not only a sin because it was an abrogation of God's will, and especially reprehensible in the case of Dives, with his sensual enjoyment of the luxuries of wealth, but it was also a dangerous opportunity to take "the first step in the downward path which leads to hell." <sup>(41)</sup> Work, therefore, had the further value of being a safeguard against temptation and it was even more valuable if it was carried on constantly. The man who kept busy every hour, doing all the duties of his social and family life, was "saved a multitude of sins which have not time to get hold upon him." <sup>(42)</sup>

In the light of the Victorian conception of the importance of work, it is easy to understand how the white colonists in Natal developed a very negative attitude towards the local African population. Africans were usually perceived as idle and averse to labour by the colonists who showed little understanding of or sensitivity to the African culture. Africans did work for themselves on the land and rested when their work was complete. They showed little inclination to work for the white man because there was no need for them to do so; Africans met their own daily requirements as subsistence farmers, and often, as peasant farmers, competed with white farmers on the colonial markets. The white man resented the independence of the colony's African peasantry. Those who refused to succumb to the labour

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<sup>38</sup>. W.E. Houghton, The Victorian Frame of Mind, 1830 - 1870 (New Haven, 1957), p. 242.

<sup>39</sup>. All Christians had a spiritual mission to serve God in his eternal warfare with Satan. In order to achieve that, he was required to "set before the world a high example of the Christian spirit: by his conversation, by a scrupulous fulfilment of all his duties, and by helping to carry forward the great battle against social evil and suffering." Ibid, p. 245.

<sup>40</sup>. J.H. Newman, Parochial Sermons, 8, No. 11, (London, 1868), p. 166. cited in Houghton, Ibid, p. 245.

<sup>41</sup>. Ibid.

<sup>42</sup>. Ibid.

demands of white employers were condemned as idle and slothful, while Africans who volunteered their services as labourers were said to be capable of doing vast amounts of heavy work. The white settlers' assessment of the productivity of local Africans was determined by their willingness to work for the colonists. In addition, whites condemned Africans because, initially at least, they were not Christian, but heathen. In essence, the Victorian saw Africans as lazy and un-Christian, and, therefore, evil. Since work (and the meaning of work) was one of the cornerstones of the Victorian existence, this placed an immediate and almost insurmountable barrier between the immigrant colonial and the indigenous African population.

This problem, essentially one of the continuity of labour, rather than a labour shortage *per se*, grew increasingly more serious as the colony advanced in time and industry, and the demand for labour became more acute and more vocal. Indeed, a reliable and cheap supply of African labour was one of the most important underlying motivations behind the whole system of 'native' administration in the colony. Even various aspects of social legislation, such as the Liquor Law, were inherently bound to the efficiency of the African labour force: a servant who was intoxicated was unlikely to deliver the full range of his productive capacity.

As Africans came to work for the English settlers, so a master-servant type of relationship developed. Russell believes that these relationships were frequently inappropriate and helped to destroy the initial respect with which Africans had regarded their white masters:

The familiarity and mistaken kindness of the Emigrants towards the Natives scandalised the old settlers, and disgusted the Dutch families still residing in or about Durban. Certainly they committed grave faults and many errors of judgement, which were only corrected by experience, for they were diverted and amused, being pervaded by Sunday school teachings as to "A man and a brother", considered the "nigger" a rum feller, very good-natured if fairly treated; didn't see any harm in him; certainly he was a bit stupid, but rare good fun... <sup>(43)</sup>

Russell's feelings provide an important insight into how these early settlers perceived the local African population and how their sentiments subsequently changed in the ensuing decades. <sup>(44)</sup> These 'liberal' Englishmen received their "kafir" into the house and treated him as "another child, or a very tame animal." <sup>(45)</sup>

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<sup>43</sup>. G. Russell, op. cit., p. 105.

<sup>44</sup>. Writing in 1899, Russell's words on a wide range of topics can be taken to be generally representative of white colonial opinion.

<sup>45</sup>. G. Russell, op. cit., p. 105.

As a result of such treatment, "hero worship declined in Natal, and the newly emancipated native, who had hitherto regarded the white man as a Chief, mysterious and powerful, to be respected and obeyed, learnt by familiarity and intercourse, especially with his employers' wife and children, that the white man was really very ignorant of many things, while it was little use speaking to him, because he could not "hear"(understand)." (46) This so-called "loss of respect", described in some cases as "contempt", was supposed to have prevailed throughout the colonial period, being exacerbated by the teachings of missionaries that a "black" soul is as good as a "white" soul. With the increasing urbanization of Africans, especially in the 1880s and 1890s, their lack of respect for whites seemed to threaten the very basis of colonial society. By 1898 Russell could report that "the respectful salutation of old is but rarely heard in the land...the dressed Native will puff his pipe in your face, and jostle your wife or daughters off the side-walk, while his girl and another sing hymns in your kitchen, or roast your youngest in the sun, flirting with the Native constables; or will mash an unconverted "brother" over your garden gate, while the missus waits." (47)

The cost of "kafir" labour was very low. Africans hired as household servants received between six and ten shillings per month, together with their board, consisting mainly of Indian corn. Sometimes they received five or six shillings per month extra to feed themselves. On average, each African servant cost his employer about £10 per annum. Field labourers received from seven to ten shillings per month, while wagon-drivers were relatively well paid at about 25 s. per month. (48) But while he could obtain labour at these low rates, the settler had to understand that he would have to be mainly dependent on his own hands. By 1859 there were nearly 10 000 Africans in Natal working daily for white settlers, "without any other pressure being applied to induce them to do so beyond the offer of wages, and the sense that they could leave their employers whenever they pleased." (49) Africans had apparently grown particularly fond of money even at this early stage, and had begun to tread the long and tortuous path to westernization. Mann has assessed the value of "kafir" labour in 1859. His views are representative of the racist white settler mentality generally: "The Kafirs will do whatever they are taught to accomplish, and whatever they are kept up to the mark to perform. But at present very few of them have had any kind of skilled training, and by temperament the race is disinclined to sustained labour. By good management and constant watchfulness a great deal of valuable service may be got out of the Kafir. But when left to himself,

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<sup>46</sup>. Ibid.

<sup>47</sup>. Ibid.

<sup>48</sup>. R.J. Mann, Colony of Natal (1859), p. 188.

<sup>49</sup>. R.J. Mann, Colony of Natal (1859), p. 217.

he sits upon his haunches, and gossips and snuffs half his time." <sup>(50)</sup> Another serious drawback of African labour for the colonist was that they refused to enter into any long term of service. After working for a few weeks, or possibly a few months, the African would return to his home with the proceeds of his labour, to pay the hut-tax, to purchase cattle and wives, and generally to enjoy himself. Because of the migrant nature of African labour, white settlers were disinclined to train their men; by the time one agent had become of fair value, having learnt to do what was required of him, he disappeared, and a raw recruit would have to be enlisted to take his place. Some employers managed to arrange a relay of servants, whereby some Africans would come into labour while others went off to 'play'. It was found that trained servants would return to good masters, by whom they had been kindly treated, at arranged times, and after having had a "fair run". Proprietors who had African homesteads on their property were usually able to procure a good supply of labour. In exchange for the continued right of squatting and certain other advantages, the head man of the homestead would agree to supply a certain quantity of work at a certain price. In Mann's experience, "To persons who do not hold this position of influence, an abundant mealie harvest, or the arrival of the cold weather, is at any time sufficient to produce a dearth of servants." <sup>(51)</sup> Any settler who gained a bad reputation as an employer would experience even greater difficulty in procuring African service, his reputation running like wild-fire from one end of the colony to the other.

The principle of "togt" labour also caused enormous problems for white employers in later years. It was perceived as both an economic and a social problem: on the economic side, day jobbers had greater bargaining power, which served to force wages up, while socially, they were not contracted to any employer, often had no fixed place of abode and seemed to enjoy the "run" of the town. Criminal elements could easily conceal themselves behind the "togt" principle.

Only African males entered into domestic service, "Kafir women [being] too much required for the drudgery of their own kraals to be permitted to make their appearance in the dwellings of Europeans." <sup>(52)</sup> The young men and boys made excellent nurses and attendants upon young settler children and it was a common sight to see these Africans outside the cottage door in the towns, with a young white infant on the knee and a cup of pap by the side, "gently administering spoonful after spoonful." <sup>(53)</sup> According to Mann, "a certain measure of tact, and a peculiar kind of

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<sup>50</sup>. R.J. Mann, Colony of Natal (1859), p. 188.

<sup>51</sup>. R.J. Mann, Colony of Natal (1859), p. 189.

<sup>52</sup>. R.J. Mann, Colony of Natal (1859), p. 209.

<sup>53</sup>. R.J. Mann, Colony of Natal (1859), p. 210.

management, are required by the Kafir servant, in order that he may be at once satisfied and comfortable in his place, and yet serviceable to his employer. The master or mistress must be at once moderate and firm." (54) He argued further that while an attempt had to be made not to exact too severe a measure of labour, the dignity and self-respect of the employer had nevertheless to be maintained at all times. It was necessary to bear in mind the rational habits and prejudices of Africans, and to allow them certain small privileges, but the employer should make his position as master clear and maintain the authority of his position with an even and strong hand: "The Kafir is so used to be kept at arm's length by his own headmen and chieftains, that he looks upon familiarity as an expression of the want of that superiority of rank on the part of his employer which entitles him to willing obedience. He serves the white man quite as much because he is an "Inkosi" or chief, as because he is the payer of wages." (55) In Mann's estimation, nearly all Africans who entered into white service were "observing and quick", "light-hearted and good-humoured", and were "easily pleased and encouraged by looks and words." (56)

The women of the colony seemed also to carry a favourable opinion of their African servants. "A Lady", offering advice to emigrants' wives, (57) notes that, with good training and management, Africans would become "very useful and intelligent assistants" (58) in the household. The repugnance felt by Englishwomen on first seeing the "dingy, half-clothed figures of the Kafirs" (59) had to be overcome as soon as possible. Like Mann, she stresses that their value as servants would depend greatly on the treatment they receive and on the general disposition of the housewife towards them. Firmness and the maintenance of her rightful position of superiority were considered to be fundamental. Some women, on finding how "useful, efficient, and intelligent" the African was, replaced their feelings of revulsion with familiarity, such as was rarely adopted even towards a "good old servant" in England. This practice was alleged to be extremely dangerous: "Nothing can be more mischievous than the indulgence of this inclination, for the Kafir is as prone to feel contempt for one who lowers himself by familiarity, as he is to bestow respect on one who commands it by keeping him in his right place. With him, everyone who is not an *Inkosi* (lord or ruler), is *Inja* (a dog)." (60)

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<sup>54</sup>. Ibid.

<sup>55</sup>. Ibid.

<sup>56</sup>. Ibid.

<sup>57</sup>. Appendix to R.J. Mann, Colony of Natal (1859), 'Hints to emigrants' wives 'contributed by a lady.

<sup>58</sup>. Ibid, p. 227.

<sup>59</sup>. Ibid.

<sup>60</sup>. R.J. Mann, Colony of Natal (1859), p. 228.

Methley draws attention to the virtual absence of crime among the African population of Natal in 1850: "It may be remarked, as a striking evidence of the peaceable and inoffensive conduct of the natives, that although there are between one and two hundred thousand in the colony, there has not been for two years a solitary conviction of a native before the highest colonial tribunal." <sup>(61)</sup> Thomas Duff states that the settlers concurred in their opinion that the Africans were "a friendly, peaceable race - that they like the white man, and have no inclination to injure him." <sup>(62)</sup> As servants they frequently had control over their masters' property, but were "seldom known to steal, dishonesty being considered by them as the deepest disgrace." <sup>(63)</sup> Mann, writing in 1859, has also drawn attention to the honesty and integrity of Natal Africans: "There is perhaps no more astonishing trait in the Kafir character, at least so far as the tribes surrounding Natal are concerned, than the scrupulous honesty of almost every individual." <sup>(64)</sup> The white settlers frequently left their houses unguarded without fastening a window or door, while articles of linen and clothing were habitually left on the open ground to dry and bleach. Despite this apparent laxity of security, it was "an occurrence of the rarest kind that any article, however trifling, is missing." <sup>(65)</sup> Mann quotes various other instances of African honesty to support his argument. A Mr. Posselt sometimes sent cash to the value of £100 from German Town up to the Berlin Mission station at the foot of the Drakensberg by means of an African messenger, explaining to him what he had entrusted to his charge, and promising him a fair payment for the safe delivery of the money. The Directors of the Natal Bank had sent money to the amount of £2 000 down to Durban from Pietermaritzburg by "kafir" messengers. While on these journeys, an African messenger had nowhere to sleep, except in the huts of strangers which he passed on his way. The goods/money entrusted to his charge would lie near him as he slept. But in spite of these facilities for theft, there was not a single instance on record of money having been lost while in the messenger's hands." <sup>(66)</sup> The Resident Magistrates responsible for collecting the "kafir" hut tax, sometimes had as much as £1 000 in their possession for days on end, while traversing the wildest parts of the land and without any guard for their personal protection. But they and their takings remained safe. A Mr. Tönnesen, who resided for four years at the Norwegian Missionary station in Zululand, never lost even the smallest article, "although hatchets, nails, and tools of the most seductive kind were constantly scattered about in all directions round the premises." <sup>(67)</sup> In Mann's

<sup>61</sup>. J.E. Methley, The New Colony of Port Natal (London, 1850), pp. 40-1.

<sup>62</sup>. Natalia, No. 7, Dec. 1977, p. 14.

<sup>63</sup>. Ibid.

<sup>64</sup>. R.J. Mann, Colony of Natal (1859), p. 42.

<sup>65</sup>. Ibid.

<sup>66</sup>. R.J. Mann, Colony of Natal (1859), p. 43.

<sup>67</sup>. Ibid.

estimation, "upon the whole there is probably no land in the world in which property is more absolutely safe than it is in Natal." (68) Part of this honesty he attributes to the traditional policy of the Zulu King Shaka (1818-28) and his successors whereby robbery in Zululand was commonly punished by death.

Whatever the reasons for African "honesty", it is clear that, at least up until 1860, both the persons and the property of Natal's white settler community were considered to be safe from the 'ravages' of "kafir" onslaught. After 1860, however, on an ever increasing scale, Africans were perceived by whites as a threat to both their physical safety and the security of their property. Assaults (most importantly criminal and indecent assaults on white women), and petty thefts and robberies seemed to suggest that Africans could and would overturn the very social foundations of white colonial society. For various reasons the halcyon days of the 1840s and 1850s came to an end in the later colonial period. The British settlers exercised a decisive and destructive impact on the culture of Natal's indigenous Nguni-speaking peoples. Continued and increasing contact with the white man, particularly in the urban environment, served to corrode the traditional customs and authority structures of African people and caused them to adopt many of the vices which the white colonists had brought with them from Europe, such as a love of strong alcohol, prostitution and loose living, and a longing for the material possessions of Western society. As Natal's African population (the youth in particular) gained freedom from their own traditional authorities (principally chiefs and parents), and their culture became submerged in the culture of the towns (the dominant white culture), so the perpetration of crimes became a daily phenomenon. Whites began to distinguish between the honesty and integrity of the raw, rural African and the dishonesty of Africans who had moved to the towns.

Between 1849 and the mid-1850s the immigration of white settlers, mostly from the British Isles, had a significant impact on the fledgling colony. (69) The severe depression then gripping the industrial economies of Britain and Europe, combined with the bad weather, poor harvests and the devastations of the potato blight which brought further misery to the poor and unemployed, spurred a renewed interest in emigration. A number of colonization schemes, sponsored by the British Government, by speculators, by philanthropists or by religious bodies, offered assisted passages and allotments of land in the colonies to 'suitable settlers', a description which included labourers, traders, artisans, farmers and individuals with

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<sup>68</sup>. Ibid. He compares this situation to the "kafir" races in the Cape Colony, who were "inveterate thieves".

<sup>69</sup>. By this time the majority of the Trekker population had left the colony and moved back into the interior.

modest capital. <sup>(70)</sup> Almost every occupation was represented. There were barristers, blacksmiths, carpenters, doctors, drapers, engineers, merchants, millers, military and naval officers, ostlers, schoolmasters, smallholders, surveyors, solicitors, stage-coach drivers, tenant farmers, tradesmen and wheel-wrights. There were a few agricultural labourers and handloom weavers. There was even an artist, a butler, a sexton and a conchologist. <sup>(71)</sup> In general, the type of white colonist who settled in Natal was middle-class: he desired to exploit the region's natural and human resources in order to accumulate material wealth. Within the context of the young colony's developing society, there were opportunities for men with talent and energy to achieve their lofty ambitions.

The diversified nature of settler agriculture, combined with the financial interests of speculators and merchant capitalists, produced noticeable divisions within the settler farming community. <sup>(72)</sup> There were the wealthier but numerically smaller 'planters' who grew cash crops such as sugar and tea along the coastal belt. This type of farming was very labour intensive and came to rely upon Indian indentured labour due to the reluctance of the local African population to undertake labour for the white man. 'Up-country' or Midland farmers made a living from mixed farming and pastoral products. Various land companies, of which the most important was the Natal Land and Colonisation Company, held vast areas of fertile farming land on speculation, often renting them to African tenant farmers. Much of the colony's maize, sorghum and livestock was produced by such rent-paying peasants.

The influx of new settlers soon changed Durban. Many of the newcomers were persons of considerable enterprise. Jeremiah Cullingworth started publishing Durban's first newspaper, the Natal Times, in August 1851. On the 25th November 1852 this paper became the Natal Mercury, with George Robinson as its editor, a paper which is an extremely valuable source for this particular study. Social life naturally increased with the size of the population, which, by June 1854, numbered 1 204 people. The women, in particular, seemed to make the most of things. "In so ramshackle a place, the wife of even a down-at-heels gentleman in England was nevertheless a person of consequence when she migrated to Natal. Ridiculous social snobberies became rampant among those with nothing better on their minds". <sup>(73)</sup> Initially there were few pastimes apart from gossip, but this state of monotony was gradually overcome. In 1853 a Mechanics Institute was formed to provide a library, while in the same year the Durban Philharmonic Society was organised in

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<sup>70</sup>. C. Ballard, *op. cit.*, p. 126.

<sup>71</sup>. OHSA, vol. 1, p. 379.

<sup>72</sup>. C. Ballard, *op. cit.*, p. 136.

<sup>73</sup>. T.V. Bulpin, op. cit., p. 169.

order to set up a band. The Natal Agricultural and Horticultural Society had already been formed back in 1848, but was reorganised in 1851. Horse races were occasions for other social gatherings, and the first proper Durban race meeting was held on the 14th and 15th of January 1852. Cape Coloureds served as jockeys, and horses and riders were cheered on by an enthusiastic crowd of settlers and a mass of curious Africans. To end the proceedings, the Africans participated in a foot race over one mile. This is perhaps one of the earliest examples of successful integration between the races at a social gathering in the colony of Natal.

Many of Natal's new colonists soon flourished. Abandoning their attempts at agriculture on the land allocated to them, they turned to trade. A wagon-load of goods could usually be obtained on credit from some established supplier in Pietermaritzburg or Durban and these could be exchanged at highly profitable rates for frontier commodities. Having acquired sufficient capital, successful traders could establish trading stores in the remote areas, open businesses in the growing urban centres, or return to farming, where they could now experiment in more capital-intensive operations. The whole of the Natal-Zululand region was thus rapidly covered by a commercial network. By 1855 the establishment of the towns of Richmond, York and Greytown in the Midlands bore testimony to this growing economic activity. Pietermaritzburg, the capital of the colony, became the new commercial centre and at that time had a white population of nearly 2 000, while the seaport town of Durban was much the same size. <sup>(74)</sup>

A prominent feature of the white settler society was its racialism. There existed in Britain during the nineteenth century the belief that its political and cultural institutions were superior to those of other nations and ethnic groups. British settlers brought these ideals and prejudices with them to Natal. Blacks were thought to be at an 'infant' stage in their cultural development, so that it was only 'natural' that the settlers should maintain their superiority in all spheres of human endeavour in order to guide, goad and, if necessary, coerce their 'childlike' wards along the path to 'civilization'. The editor of the Natal Witness provided a typical expression of this attitude when he wrote in January 1847: "The other class of our colonial population consists of men in a state of infancy as regards civilization. They are far more numerous than the Europeans, and their numbers are likely to be increased by additions from the adjacent tribes. Scattered over large tracts of country, and unimpelled by want, they have worn their lives away up to the present time in slothful indolence, to the full development of the depravity of human nature." <sup>(75)</sup>

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<sup>74</sup>. C. Ballard, *op. cit.*, pp. 128-9.

<sup>75</sup>. cited in C. Ballard, *op. cit.*, p. 132.

With so small a population, crime did not constitute much of a problem for anyone. The little inland town of Pietermaritzburg was the seat of government and the centre of official authority, while on the coast signs of administrative activity were almost imperceptible. The collector of customs acted as magistrate and was supported by "a badly-paid person in plain (and very shabby) clothes, known, politely, as a policeman." <sup>(76)</sup> At first there was no place of confinement for prisoners, but in time a small cottage came to serve as a jail and was known by its Dutch title as the "tronk". Its walls were constructed of clay and twigs, and could easily be breached by the hands of an enterprising inmate, bored with his captive existence. But the "rigours of existence there were slight and escapes were rare." <sup>(77)</sup> According to George Russell, "The majesty of the Law in Durban was entrusted to two or three Europeans, with a few Native constables, and enshrined in a pretty thatched cottage of wattle and daub, surrounded by a cluster rose fence, in Central West Street, having iron bars to the windows." <sup>(78)</sup> Mr. Thomas Dand, who had accompanied Lieutenant-Governor Pine to the colony early in 1850 as his personal attendant, was appointed Gaoler. The two front rooms contained stocks, and were reserved, one for whites and one for Africans, the back rooms serving as quarters for the white constables on or off duty. The outbuildings at the rear were occupied by Dand himself and also served as a hospital, kitchen and washhouse. All prisoners under sentence wore chains fastened to their ankles by a hook, bent on in a blacksmiths' vice, so as to form an open ring. This prevented prisoners from running away and served also as prison garb. Unruly captives were clapped in stocks, or handcuffed, while the certainty of a flogging seemed to deter prisoners from thoughts of escape.

Despite its apparent leisureliness, the law cracked down hard on offenders and floggings and hangings were all conducted in public. These public occasions were usually well attended and served as a form of entertainment. The excited onlookers certainly received full value as far as the sentences were concerned: for example, on Saturday 2 July 1853 a soldier named Desmond received 50 lashes (and three years' imprisonment) on the market square for having received stolen property. At the same session of the Circuit Court, an African named Nohlosela was convicted of an attempted rape on a Corporal's wife at the Camp and was sentenced to five years imprisonment and 50 lashes. This was one of the earliest recorded instances of the dreaded "social pest", which in the ensuing decades would blossom into full-blown notoriety. It is interesting to note that there is a direct correlation between economic hard times and rising tensions in the "native question". The above "outrage", probably one of the first in the history of the colony, occurred during a period of

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<sup>76</sup>. Sir J. Robinson, op. cit., p. 17.

<sup>77</sup>. Ibid.

<sup>78</sup>. G. Russell, op. cit., p. 112.

severe economic depression (1852-3). The Natal Witness described the state of the economy as follows: "Mercantile business is stagnant, farmers are complaining there is no market for their produce, and large numbers are deciding to leave the colony." (79) An underlying anxiety about economic matters was often translated into a more specific fear concerning the safety of white women and children. Natal's white settlers were prone to bouts of moral panic during periods of economic depression.

Already in the 1850s the African male was being referred to as a "Social Pest", who posed a serious threat to the women and children of the colony. The "intimacy" which had been allowed to develop between the races, in particular with regard to the master-servant relationship, was deemed to be responsible for the harassment of young white girls and children by African men. (80) The newspapers, ministers of religion and concerned parents vociferously called for death, imprisonment, whipping, or banishment as the only solution to a growing social problem. They seemed to overlook the fact that when, in 1853, a soldier and an African had both been sentenced to a public flogging, an equally strong outcry had been raised. As a result, the Recorder had ordered that future floggings would be administered in private. According to Russell, "the moral influence was consequently lost upon the Natives. The continued familiarity of domestic intercourse between the Europeans and Natives gave the latter every encouragement to undervalue the morals, or social customs, of their employers." (81) In 1856 the Natal Mercury even went so far as to suggest that lynch-law might with advantage be resorted to. Tuta, the African Captain, was instructed to inform local Africans that the "sponging" system (82) would not be allowed and white employers were notified that they were at liberty to inflict a sound thrashing on any strange African found intruding on their premises. (83)

There seemed to be a great deal of discrimination between whites and Africans in the application of the lash. The soldier, Private Desmond, and the African, Nohlosela, were both scheduled to be publicly flogged on the morning of Saturday, 2 July 1853. After Desmond had been lashed to a cart-wheel, the police warder, who

79. NM, 2 Dec. 1852. cited in N. Ramdhani, 'Financing Colonial Rule: The Hut Tax System in Natal 1847 - 1898', (M.A. thesis, University of Natal, Durban, 1985), p. 50.

80. At this early stage, white women seemed to remain safe, but from the mid-1860s, and particularly during the two rape scare periods, 1866-71 and 1886-7, they too fell victim to the "animal propensities of the savage".

81. G. Russell, op. cit., p. 284.

82. African servants seemed to have numerous so-called "brothers", who sponged food and accommodation off them. Employers had no control over this "floating" element of the African population.

83. NM, 20 Nov. 1856.

was an old soldier, appeared to lay it on thick, but, according to Russell, "there is a secret known to Drummers and Bosun's-mates, acquired by a long experience in those arms of service, by which the force of the blows can be neutralised."

Desmond received his 40 lashes "without emotion, his back only showing a broad pink patch fringed here and there with a few scarlet dots. When loosed, he took a drink of water and put on his shirt with a grumbling oath or two." <sup>(84)</sup> The African, however, was not treated with the same leniency, with the result that his back became "first white, then livid, and then streaked with blood." <sup>(85)</sup> Russell himself had satisfied his "morbid curiosity" and left the scene without waiting for the doctor's opinion. <sup>(86)</sup> It was the first time he had seen a white man flogged at the hands of justice. Africans, however, he had frequently seen come under the lash.

Africans were considered to be inherently inferior to their white masters. As the colony's judicial system worked itself out in the succeeding decades, it became clear that the punishment of Africans was intended to be both corrective and a deterrent to further malpractice; above all, it was supposed to make an impression on the "native mind" and was considered to be an integral part of the civilizing process.

The verandah of McDonalds' Hotel, served as the court of Henry F. Fynn, the Assistant Resident Magistrate and the Administrator of Native Law. He had a Native Assistant or Chief Constable by the name of Tuta, who for his services was later promoted to the rank of *Induna*. Both he and his successor, Mafingo, were for many years connected with the Resident Magistrate's Court and formed an integral part of the judicial process. Prisoners charged with minor offences, master and servant cases, petty thefts, assaults, etc. were marched up from the "Tronk" by great-coated African constables, armed with assegais. When his case was called, the prisoner was duly "haled before the judge, whom he would salute, squatting down a respectful distance in front of him, until ordered by the great man to stand. Once the complaint had been heard, the prisoner was interrogated and reprimanded, but was more frequently condemned to ten or twenty lashes. Having handed down sentence, Fynn would produce his snuff box and take a breather, while Tuta and his men "took the culprit aside a convenient distance, spreadeagled him on the sand, face downwards, and counted out the strikes with a sjambock on his back and shoulders. Prisoner, on his release, would writhe into his blanket, hold up his hand and shout a respectful "Inkosi" to the dignified white chief, while walking past to resume his employment." <sup>(87)</sup>

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<sup>84</sup>. G. Russell, op. cit., pp. 170-1.

<sup>85</sup>. G. Russell, op. cit., p. 171.

<sup>86</sup>. Ibid.

<sup>87</sup>. Ibid.

This type of summary justice and punishment was believed to appeal both to the Africans' feelings and his sense of understanding. The old adage "suit the action to the word, the word to the action", was very much part of Zulu law and custom. <sup>(88)</sup> In Russell's view,

The Native knows when he has done wrong; his sense of justice is very keen, and he expects to pay the penalty when found out, even with his life. Hence the severance of all his social ties by incarceration in a prison, with its routine and cleanliness, is particularly distasteful to him, but it carries with it no degradation, the enforced labour being regarded simply as a tax paid to the Government. He would at any time prefer a flogging with liberty. <sup>(89)</sup>

All in all, this method of dispensing justice seemed to favour both parties: the Africans seemed to prefer it, <sup>(90)</sup> and this method was inexpensive and appeared to produce good results. Considering the lack of prison accommodation and the absence of coin from which to enforce a fine, a "good flogging" seemed to produce all the answers. Except in marriage cases, or offences between Africans, cattle were rarely taken or paid.

Mann informed his readers that "there is perhaps no country in the world where the majesty of the law is more thoroughly vindicated, or more faithfully revered." <sup>(91)</sup> Throughout the colony an efficient staff of resident magistrates was in commission with the result that "crime scarcely ever escapes detection, and its due need of punishment." <sup>(92)</sup> He cites, as an example, a case brought before the Criminal Court in Pietermaritzburg in 1859, in which an African was tried for an act of violence against a young girl of his own tribe, which had resulted in her death. He had been 'arrested' by the Africans of a neighbouring kraal and brought some considerable

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<sup>88</sup>. Traditional law and custom refers to the Zulu social system in operation at the time of white expansion into south-east Africa.

<sup>89</sup>. G. Russell, *op. cit.*, p. 172.

<sup>90</sup>. Later on in the colonial period, "the modern overdressed town native" was said to prefer "the velvet glove of prison discipline to the sharper tooth of the cat." (G. Russell, *op. cit.*, p.172) The reverse reasoning was now used to justify flogging: whereas in the 1850s (and before) whites favoured the lash because Africans preferred it, as Africans became more westernized and moved into the towns, white colonials demanded flogging because Africans were evidently averse to it; it seemed to offer the only deterrent to the increase of African crime in the white colonial setting.

<sup>91</sup>. R.J. Mann, *Colony of Natal* (1859), p. 218.

<sup>92</sup>. *Ibid.*

distance to the resident magistrate at Greytown. He was subsequently convicted for the offence, condemned to death, and executed. All this went to prove that the law was operative even in the "wildest districts of Natal".<sup>(93)</sup> Since 1849 there had been frequent hostilities between the Cape Colony, and the hereditary chiefs and independent tribes dwelling on its frontiers, while in both Basutoland and Zululand war had broken out. In Natal, however, peace and security had remained undisturbed.

Durban was proclaimed as a Borough on 15 May 1854 by Lieutenant-Governor Sir Benjamin Pine, who outlined the boundaries as follows: east, by the Indian Ocean; north, by the Umgeni river; north-west, by the farms Springfield and Cato's Manor; south and south-east, by the Umbilo River and the Bay of Natal. The white population of Durban consisted of 1 204 people, of whom only 229 were eligible to vote in the first Town Council election on 2 August 1854. The Borough consisted of four wards, each returning two councillors, G.C. Cato being elected as the first Mayor. Thenceforth, the face of Durban began to change: "The carefree laughter of childhood vanished and the cares of commerce, trade and depression put wrinkles on its brow. Soon little was left of those early days."<sup>(94)</sup>

Although the steady influx of immigrants since 1849 had brought about some improvement, Durban was still virtually a "Sandy Hole" in 1854: "Its houses were like plums in a school boy's pudding, for they might literally be said to shout at each other. Like angelic visits, they were few and far between."<sup>(95)</sup> West and Smith Streets were quite well frequented with buildings between Gardiner and Field Streets, but over the rest of the little town they were sparsely sprinkled and no footpaths flanked the unhardened streets. The Berea was still an unbroken stretch of virgin bush, the top of which was distinguished by Henning's windmill.<sup>(96)</sup>

As early as 1856, even before the introduction of Indian indentured labour, a Dutch indigo planter by the name of Van Prehn<sup>(97)</sup> had urged the importance of locating the Indian population outside the 'white' town in a village of their own.<sup>(98)</sup> He

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<sup>93</sup>. R.J. Mann, Colony of Natal (1859), p. 219.

<sup>94</sup>. T.V. Bulpin, op. cit., p. 172.

<sup>95</sup>. J. Malherbe, Port Natal (Cape Town, 1965), p. 81. Quoting a newspaper editorial "Ten Years Later".

<sup>96</sup>. Ibid.

<sup>97</sup>. Van Prehn and T. Colenbrander arrived in Natal in December 1854 and commenced operations at Pinetown. In 1856 the former left the colony, the indigo enterprise having proved a failure.

<sup>98</sup>. Africans were welcome as labourers in the 'white' towns, but were unwelcome as residents. Domestic servants,

suggested that the Indians should appoint a suitable man among them as a chief ("Rajah"), who would maintain his own police, taking an equitable share of the revenue and a tribute for his pay. He would be at liberty to administer the Indian quarter "after their own congenial and delectable practices", <sup>(99)</sup> but would be subject to the authority of the Mayor and Town Council. The Chief would confront all offenders against the laws and his "tenure of office and emoluments would be conditional upon the aid afforded the Civic power in maintenance of order and production of offenders." <sup>(100)</sup> This system had apparently worked well in Java and in other Eastern States governed by Europeans, "accommodating itself as it did to the Indian character and love of free warren." <sup>(101)</sup> No Indian would be allowed to reside in Durban.

Within twelve months of the arrival of Indian immigrants, Baboo Naidoo, an interpreter and "high caste man", had opened up a "little innocent shop" in Field Street for the sale of condiments and other delicacies not included in the "coolie" rations. <sup>(102)</sup> Thereupon, another caste set up Candasamy Chetty, with subscribed capital, in a shop of Messrs. Evans and Churchills' at the corner of West and Field Streets. The Moslems then moved in and others followed in quick succession, Councillor Millar and other burgesses "deriving satisfactory rentals from tenements let to these enterprising people." <sup>(103)</sup> Over the years this "coolie infiltration" of Natal's principal towns, Durban and Pietermaritzburg, produced a fervent outcry and a torrent of abuse directed at Indians, since they seemed to threaten the sanitary standards of public health and the European monopoly of economic opportunity in the colony. By 1893 the proposed locations for Indians outside the towns had yet to be constructed. Nearly 40 years of rhetoric had failed to produce any concrete action.

Up until 1860 Durban was still largely a primitive place and suffered greatly from "unhardened streets, inadequate sidewalks, open drains, dumping of malodorous rubbish in vacant erfs, no street lights, and the absence of a laid-on water supply." <sup>(104)</sup> In 1860 the Editor of the Natal Mercury wrote despairingly:

The sanitary condition of this town has been disgracefully neglected of late; and now the rains have set in with no provision for preserving the health of the place. Indeed,

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however, were permitted to live on the premises of their employers.

<sup>99</sup>. G. Russell, op. cit., p. 259.

<sup>100</sup>. Ibid.

<sup>101</sup>. Ibid.

<sup>102</sup>. G. Russell, op. cit., pp. 259-60.

<sup>103</sup>. Ibid.

<sup>104</sup>. J. Malherbe, op. cit., p. 86.

no attention whatever has been paid to the state of our drains, which are mostly clogged [sic] up, fallen in, and utterly useless, or worse than useless, for they have become cesspools of stagnant filth, and hot-beds of disease. The inhabitants are allowed to throw garbage of all sorts on unoccupied plots; and these, even in dry weather, have emitted horrible stench. We may mention particularly the low, central part of West Street, especially the south side, and other places are nearly as bad. Pig sties, manure heaps, and open surface privies are allowed without check. In fact our bye-laws, which provide powers for the removal of all nuisances, are literally and entirely a dead letter. The footpaths and fences are in ruin, but every other improvement should give way to an instant effort to improve the drainage and abate nuisances. <sup>(105)</sup>

Until November 1860, when the West Street cemetery was laid out, people were still buried among the sand dunes on The Point, or even on their own property. This Point "cemetery" was in a pitiful state of neglect, with most graves unidentifiable, and the place was fouled and desecrated by vagrant Africans and Indians from the "coolie" barracks at Addington, causing a nauseating stench to sometimes drift into the town, depending on the direction of the wind. Pigs, of the four-footed variety, were a further source of annoyance: "Swine are becoming an increasing and intolerable nuisance. The town literally swarms every night with blatant boars, somnolent cows, and pestiferous porkers. They invade our premises, ravage our gardens, infest our streets, and pervade our paths." <sup>(106)</sup>

Up to the 1860s Durban's general residential area was the inner Point area, and the stretch from Gardiner Street, along Smith and West Streets, towards the Back Beach, with the scattered dwellings on the distant Berea ridge constituting almost a 'country' suburb. West Street, beyond Grey Street, was the haunt of various Indian shops. By the end of the Sixties, however, the area between Grey Street and the Berea residential area had developed into blocks and streets, and filled up with houses. Travelling up the Berea ridge in the 1860s was still a laborious and dangerous business, involving "an interminable catalogue of bruised limbs, injured horses, tattooed cuticles, excoriated visages, systematic spills, bone-breaking upsets, and muttered curses." <sup>(107)</sup> Despite these physical difficulties, the Berea continued to develop, and by 1863, as seen from the outer anchorage, it presented a pleasant facade of attractive cottages, houses and colourful gardens. By night she was reported to present a spectacular visage: "At night the scene is really remarkable. One might almost imagine the brilliantly illuminated hillside opposite

<sup>105</sup>. J. Malherbe, op. cit., pp. 110-111. cited in NM, 16 Aug. 1860.

<sup>106</sup>. Cited by J. Malherbe, op. cit., p. 110.

<sup>107</sup>. J. Malherbe, op. cit., p. 151.

was Edinburgh from Princes Street, so many, and so twinkling the lights upon it." (108) The Berea became a sort of 'country retreat' for the elite, away from the original residential area in the town itself. Also in the early sixties Durban's wild-game, leopards, lions and elephants who roamed the outskirts of the little town and caused many a scare, decided to retreat from the perilous advances of civilisation and moved northwards.

The year 1860 was one of the most important years in Durban's history and marked the end of its primitive settling stage. In that year South Africa's first railway was inaugurated in Durban, South Africa's first Royal guest, Prince Alfred, visited Durban, and the first organised immigration of Indians took place. Also in 1860 the first full cargo of sugar was exported to England, a stage-coach service between Pietermaritzburg and Durban was established, Durban's first cricket match was played, and the first time-piece was installed in Gardiner Street. Durban could now look further down the colonial path, where crime and social problems, largely a result of Natal's peculiar ethnic mix, would attract and occupy the attentions and deepest passions of administrators and colonists alike.

It is important to allude, briefly, to the Victorian idea of progress. This ideal was not limited merely to material advance, but also encompassed a high sense of mission. All men, not just commercial leaders and workers, took part in the great march and struggle of mankind up from barbarism to civilization. The white colonist in Natal saw the local African population as a great mass of barbarism (which they were when viewed in terms of the Anglo-Saxon culture) and was keen to civilize, christianize and commercialize this frightening majority. The Victorian believed that he had a God-given mission to uplift Natal's African population towards a more civilized state. He hoped that Africans would eventually begin to think, speak and act like good Anglo-Saxon Englishmen. This would indeed be progress! In their cultural arrogance, Victorians often failed to perceive or to be sensitive to the true nature of African society. Their misconceptions gave rise to a number of social problems which greater sensitivity and insight on the part of the whites might have avoided. (109)

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<sup>108</sup>. Quoting a visitor. *Ibid.*

<sup>109</sup>. W.E. Houghton, *op. cit.*, p. 25.

## CHAPTER THREE

### PROPERTY AND CRIME

In this chapter crimes committed against property will be examined in the light of the broader aims of this study as stated in the introduction. Urban and rural crimes will be considered separately. Urban crime refers to crimes such as theft and house-breaking committed in the town of Durban in particular, but references are also made to crimes committed in Pietermaritzburg in order to construct a more holistic picture of property crime in the colony's principal towns. Rural crime refers to crimes such as sheep-stealing and cattle-stabbing which were committed in outlying districts throughout the colony. In organising the material for this chapter, the following methodology has been adopted. Each decade is examined as an entity. The prevailing economic conditions for each decade are described at the start of the decade in order that any correlation between crime and the economy can be detected as criminal activity during the course of the decade unfolds. The relationship between crime and economy, and the changing nature and extent of property crime, with particular reference to the frequency of these crimes committed by the various ethnic elements of the population, are examined more fully at the end of each decade. The promulgation of new laws addressing crimes against property will be examined in detail since legislation was one of the principal mechanisms used by the settlers to control the colony's black population.

Metropolitan officials at the Colonial Office in London held the view that Africans living in Natal lived in peace and security as a direct result of British administration, and that they should, therefore, contribute to its cost. In a despatch to Natal's Lieutenant-Governor West, Earl Grey, the Secretary of State for Colonies, called for a moderate tax to be imposed on all lands occupied and cattle possessed by Africans. "The objects of this tax", Grey stated, "would be to raise revenue, check excessive cattle rearing by Africans and to encourage the use of money by Africans." (1) There was thus a deliberate desire and attempt on the part of the white man to draw the local African population into certain aspects of European civilization, particularly the cash economy. In view of the fact that Africans outnumbered whites by almost 15 to 1 by 1852, African participation in the white money economy would be extremely lucrative for white bank balances. It was hoped that Africans would

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<sup>1</sup> S.N.A., Vol.1/1/1. Copy of Minute Paper from Earl Grey to Lieutenant-Governor West, 11 Dec. 1847. cited in N. Ramdhani, op. cit., p. 27.

raise the money to pay their taxes by engaging in 'worthwhile' labour for the white man; hard work was one of the cornerstones of the Anglo-Saxon culture and it was thought that such labour would have a civilising effect on the black 'savage'. The whites in Natal therefore encouraged and promoted a certain individual materialism among the local African population, a quality which was totally alien to the culture of Nguni-speaking peoples. When Africans began committing property crimes against their white 'masters', Natal's white population was, to a considerable extent, merely reaping the dubious fruits of an attitude which they had sown into the region's African people.

There was much debate as to the type of taxation which Africans should be subjected to. The 1846 Locations Commission, recommending that Africans be located in a number of reserves, suggested that the annual costs of African administration (estimated at £5 500) be defrayed by a poll tax of 3/- on all male Africans over 16 years of age. <sup>(2)</sup> The Commission recommended this system of direct taxation as Africans were not yet consumers of imported goods. The idea of a poll tax was eventually abandoned because of the difficulty involved in collection, as many government agents would be required to oversee the collection and they would impose a further financial burden on the government. <sup>(3)</sup> The colonists also suggested that Africans who were in the employment of white settlers for six months of the year should be exempt from any form of direct taxation as this would induce them to enter the labour market. <sup>(4)</sup> In 1849 James Archbell, an influential missionary, urged that the African population be brought under a uniform system of taxation which included the payment of a land tax of 10/- for a specific number of acres of land cultivated, a protection tax, for the benefits of being protected by the government, of 5/- for every individual over 14 years and under 60 years, and finally a property tax of 5/- for every head of cattle. <sup>(5)</sup>

After four years of heated debate, the decision was finally taken to impose a Hut Tax of 7/- . Theophilus Shepstone, who recommended this system of taxation, believed that it offered certain advantages. Firstly, evasion would be difficult as all huts would fall under this taxation system. Secondly, it was expected that it would discourage polygamy. <sup>(6)</sup> Since Nguni customs usually demanded that each wife be given her own hut, every husband who possessed a number of wives would be obliged to pay

<sup>2</sup> C.O. 879/8/80, p. 2. Minute of Sir F. Rogers, 28 Nov. 1874. cited in N. Ramdhani, op. cit., p. 28.

<sup>3</sup> C.O. 879/1/xxiii, p. 8. Governor Pine to Duke of Newcastle, 12 March 1854. cited in N. Ramdhani, Ibid.

<sup>4</sup> NW, 8 Feb. 1849. cited in N. Ramdhani, Ibid.

<sup>5</sup> NW, 8 March 1849. cited in N. Ramdhani, op. cit., p. 29.

<sup>6</sup> C.O. 879/1/xxiii, pp. 61-62. Despatch from Pine to Duke of Newcastle, 29 May 1854. cited in N. Ramdhani, Ibid.

7/- for each of the huts. This method of taxation seemed, therefore, "an ingenious way of compelling Africans to contribute to the general revenue of the colony and to discourage the 'barbaric' customs attached to northern Nguni marriage rites." (7)

Grey suggested that the chiefs should be made responsible for the Hut Tax payments required from their tribes and that "moderate stipends" be paid to them from the revenue they collected. In order to enable Africans to earn money and thus make a contribution to the costs of colonial administration and defence, he recommended that they be employed in road construction or by white settlers. (8) The essence of Grey's suggestion was that the white authorities should use local African authorities to assist in the exploitation of their own people. This system of indirect rule proved to be a remarkably successful system whereby the Natal Government was able to control the huge indigenous African population.

As Rhamdhani has shown, "The Hut Tax, a form of property tax, was the system of revenue collection imposed upon the northern Nguni inhabitants of Natal by the British colonial authorities to finance the administration of African Affairs." (9) The Hut Tax also proved to be "an enduring and, from the British perspective, successful administrative vehicle that taxed Africans with a minimum of expense and coercion." (10) The Hut Tax, first instituted in 1849, became "an integral part of African life, thereby becoming a yearly reminder of the existence of the power of the colonial state through the Lieutenant-Governor in his capacity as the "Supreme Chief" and spokesman for the British government." (11) This tax, therefore, should be interpreted not only as a means of exacting revenue, but also a device for imposing psychological control over the region's African peoples. This might explain the extraordinary level of acceptance by Africans of the legal requirement brought in by their white masters that this tax be paid. Throughout the nineteenth century there was no marked resistance to the collection of taxes, nor is there any evidence which suggests that Africans were physically punished in their attempts to evade taxation. (12)

The introduction of the Hut Tax seems to have been accepted without protest by the chiefs and their people as was evident in their willingness to pay. The chiefs also received the assurance that, in the absence of public works in certain parts of the colony where Africans could earn money, cattle or produce would be accepted in lieu

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7. Ibid.  
 8. Ibid. see Grey above.  
 9. Cited in N. Ramdhani, *op. cit.*, p. 1.  
 10. Ibid.  
 11. Ibid.  
 12. Ibid.

of money for the taxes. <sup>(13)</sup> This "tax in kind" policy revealed the desire of the government to induce Africans to involve themselves in some kind of economic activity, although the whites preferred that African economic activity would not be independent, but would be labour in the white economic sector.

It was extraordinary that a small white population could so easily impose a tax, which was equivalent to six weeks' wages for a labourer, on a so-called 'barbarous' and 'warlike' African population numbering 100 000 people. Ramdhani has suggested a number of reasons for this acceptance by local African peoples. Firstly, they were anxious to prevent losing access to adequate land. Secondly, they were accustomed to making a contribution to their chiefs and many Africans believed that the imposition of the Hut Tax would not be an annual demand. Thirdly, Africans in Natal desperately desired protection from the Zulu kingdom and were therefore prepared to accept almost any condition. <sup>(14)</sup>

In the early days of the colony's existence, the African population contributed very little to the customs revenue since their wants were few and they produced their own foodstuffs and wore little European clothing. Beads, however, were much in demand for decorative purposes and in 1854 an attempt was made to increase their contribution to the revenue by the imposition of a customs duty of 3d. per pound on beads. <sup>(15)</sup> The white settler community complained bitterly that they were taxed, while Africans were allowed to live off the fat of the land; they were forced to purchase and to pay for every inch of land they required, whereas Africans could squat anywhere without having to pay transfer dues, quit rents, measurement fees, stamps, title deeds or any other forms of expense. <sup>(16)</sup>

African peasant cultivators, often renting land from white absentee landlords, produced maize, vegetables and sorghum, and sold the surplus at nearby markets. <sup>(17)</sup> Bundy has suggested that the African peasantry presented an economic threat to the white settlers who arrived in Natal. The 1852-53 Native Affairs Commission complained that Natal's peasants were "rapidly becoming rich and independent, ...they prefer the most independent state, and hence has arisen the uniformly insufficient supply of labour." The major proprietors in the colony found that their easiest source of revenue lay in renting lands to Africans. Prior to 1870 these latter

<sup>13</sup>. S.N.A., Vol. 1/1/1. Minute from Earl Grey to Governor West, 11 Dec. 1847. cited in N. Ramdhani, op. cit., p. 35.

<sup>14</sup>. N. Ramdhani, op. cit., p. 37.

<sup>15</sup>. N. Ramdhani, op. cit., p. 17.

<sup>16</sup>. NW, 12 Jan. 1849. cited in N. Ramdhani, op. cit., p. 19.

<sup>17</sup>. C.J. Bundy, The Rise and Fall of the South African Peasantry (London, 1979), p. 168.

farmers were able to withstand pressures on them to work for the white man and were able to pay their taxes by selling off their surplus grain or cattle. <sup>(18)</sup>

Various groups of white settlers, notably several prominent commercial farmers and planters, complained about the labour shortage which resulted from the alleged 'idleness of the native'. The majority of settlers also believed that the African population should provide funds for the construction of roads, bridges and other improvements in the colony as they were benefitting from such improvements as well as from the security provided by the Natal government. <sup>(19)</sup>

By 1853 African peasant cultivators were well established, causing many colonists to complain that "the kaffirs are much more insubordinate and impatient of control; they are rapidly becoming rich and independent." <sup>(20)</sup> Africans enjoyed access to a range of land categories; they could choose between occupation of Crown lands or land owned by absentee landlords or mission lands or land provided by white farmers in return for labour. In addition, the granting of nearly 200 000 acres of Crown lands to mission stations gave many Africans the opportunity both to occupy land and to benefit economically from the education and training offered them by the missionaries. <sup>(21)</sup> The African peasantry was also greatly assisted by their ability to exercise a choice with regard to the kinds of economic relationships they could enter into. There were three ways in which cattle and other resources could be utilized. They could engage in hunting for ivory, which could be bartered for cattle from the white colonists. Secondly, they could barter their agricultural surplus with local whites. Thirdly, though the least attractive alternative, they could labour for the white settlers. <sup>(22)</sup> This economic independence enabled many Africans to pay their taxes by selling surplus grain, vegetables or cattle, and to buy manufactured goods such as ploughs, hoes, blankets and clothing.

In contrast, Natal's white agricultural sector was in a depressed condition. The British immigrants who came to Natal had been unable to afford the purchasing of seeds, farming implements and animals for drought purposes. In order to

<sup>18</sup>. C.J. Bundy, 'The Emergence and Decline of a South African Peasantry', African Affairs, Vol. 71, No. 285 (October 1972), p. 374.

<sup>19</sup>. NW, 12 Jan. 1849. cited in N. Ramdhani, op. cit., p. 20.

<sup>20</sup>. C.O. 879/1/xxiii, pp. 26-27. Report of Native Affairs Commission (1852-1853). cited in N. Ramdhani, op. cit., p. 45.

<sup>21</sup>. C.J. Bundy, The Rise and Fall of the South African Peasantry, p. 172.

<sup>22</sup> H. Slater, 'Changing Economic Relationships in Rural Natal' in S. Marks and A. Atmore, Economy and Society in Pre-Industrial South Africa (London, 1980), pp. 156-57.

accumulate capital, many turned to hunting, trading or commerce. <sup>(23)</sup> Many of those who did remain in agriculture, found themselves unable to compete with African peasant producers, "except through a pattern of labour relations based on overt coercion which financial and political constraints prevented." It became clear that "as long as Africans were able to obtain sufficient income from the herding of cattle or the cultivation of land to meet their own ends, white farmers would be unable to obtain sufficient, cheap and long term labour to make the enterprises to which they aspired, feasible." <sup>(24)</sup> For this reason, whites were forced to resort to Indian labour from 1860 and labour from Swaziland and Lourenco Marques from the early 1870s onwards. They also made deliberate attempts to undermine the African peasantry.

The colonial government insisted at all times that the Hut Tax be paid in full, even during periods of economic depression and calamity. Welsh has noted that the Hut Tax was "an important element in the system of administration ... designed to achieve the threefold aim of raising revenue, forcing Africans out into the labour market and effecting social change among them." <sup>(25)</sup> Slater has emphasised the importance of the relationships which existed between the land and labour questions in Natal, and attempts to illustrate the numerous attempts made by "those who held state power to render land a still more scarce and differentiated resource", thereby making it more difficult for Africans to pay rents and taxes through an independent existence on the land. <sup>(26)</sup> He argues further that "once the era of cash crop experimentation was over", attempts were made "by commercial farming interests in Natal to win control of the state apparatus and to use it to implement a version of this blueprint and thus overcoming African resistance to proletarianisation." <sup>(27)</sup> Bundy, working from a similar revisionist, material perspective, argues that

There was a substantially more positive response by African peasants to economic changes and market opportunities than is usually indicated; that an adapted form of prevailing subsistence methods provided hundreds of thousands of Africans with a preferable alternative to wage labour on white colonists' terms in the form of limited participation in the produce market; that a smaller group of black farmers made considerable adaptations, departing entirely from the traditional agricultural economy and competing most successfully with white farmers... <sup>(28)</sup>

<sup>23</sup>. N. Ramdhani, *op. cit.*, p. 46.

<sup>24</sup>. H. Slater, *op. cit.*, p. 158.

<sup>25</sup>. D. Welsh, The Roots of Segregation (Cape Town, 1973), p. 23.

<sup>26</sup>. H. Slater, *op. cit.*, p. 155.

<sup>27</sup>. *Ibid.*

<sup>28</sup>. C. Bundy, The Rise and Fall of the South African Peasantry, p. 13.

Bundy explains the ways in which Africans were able to raise cash for the payment of their fees and Hut Taxes. He also shows how, as a result of political pressure, Natal's African farming communities were slowly deprived of their different sources of income, thus being forced to enter the wage market.

The revenue crisis experienced by the Natal Government in the 1860s led to the introduction of the Marriage Tax in 1868 and the doubling of the Hut Tax in 1875. There was little marked resistance to the increased tax and Africans were able to pay the tax with relative ease, suggesting that they were economically independent, and even prosperous, in the 1870s. <sup>(29)</sup> From the mid-1880s, however, these African farming communities entered a period of decline. The decline and eventual destruction of Natal's African peasantry was caused by the interaction of a number of factors such as the discovery and development of the gold mining industry, the commercialization of the white farming sector in Natal, the granting of representative government to the white settler community in Natal in 1893 and the environmental calamities of the late 1890s. As the Africans' independent source of income was diminished, their ability to pay the Hut Taxes was reduced, and they came to look upon the system of taxation with growing resentment, culminating in the Bambata Rebellion of 1905-1906. The granting of representative government to the white settlers in the colony "signalled that the destiny of the African population lay in the hands of those who instituted State pressure on Africans to leave their land and seek work in white owned enterprises." <sup>(30)</sup>

In short, therefore, Natal's white population made deliberate attempts to draw the indigenous African population into the white dominated money economy and to create material wants which were alien to the African culture. Through devices such as the Hut Tax and the underdevelopment of the region's African farming community, it was hoped to force Africans to engage in 'useful' labour for the white man. Given the massive size of the local African population, whites realised that it would be extremely lucrative for their own businesses if Africans could be induced to become purchasers of consumer goods. This strategy may have seemed wise in the 1850s, but when Africans became the major perpetrators of property crimes during later decades, it appeared that attempts to europeanise them in a positive fashion had failed. They had acquired not only some of the alleged benefits of the Anglo-Saxon culture, but also most of the vices.

<sup>29</sup>. N. Ramdhani, *op. cit.*, p. 9.

<sup>30</sup>. N. Ramdhani, *op. cit.*, p. 10.

Before it is possible to analyse the influence of the dominant European culture upon the indigenous Zulu population, it is important to examine, briefly, the nature of crime and punishment in pre-colonial Zulu society.

According to Isaacs, the Zulus did not possess that vindictive disposition so characteristic in most savage tribes. <sup>(31)</sup> The common people - namely, those whose occupation was not war - lived in a state of good fellowship with each other. Their private differences were usually adjusted by the chief of the homestead of which they were a member; his decision was always final, and his award in most cases satisfactory, seldom exceeding corporal chastisement, or perhaps fines of cattle, according to the means of the offender.

Capital crimes, such as rape, adultery, murder, witchcraft, treason, cowardice and desertion in battle, and spying, were judged by the king and his chiefs. They were all punishable by death, either by stoning, strangling, twisting the neck or beating with clubs. If the culprit recovered after having been left for dead, he would be killed by impalement. Those who partook of the new corn before the king had issued his decree to do so also received the death penalty.

Other crimes such as lying, stealing, disrespect, errors in judgement, mistakes in delivering messages, violating laws or customs, and want of attention in dancing, were all punishable at the whim or fancy of the monarch; sometimes death was awarded, but in most cases the offender received an immoderate castigation with sticks.

Certain breaches of Zulu etiquette, such as coughing, spitting, belching, sneezing or blowing the nose while the king was eating, were considered to be criminal actions, and at times were punished with death. Generally, however, the chief domestics would beat the guilty party away. If the master of a homestead committed such a crime, he was required to offer a *schlowoola* (a peace offering), by sending a young heifer to the king, in order to reestablish favour with the king. Should anyone involuntarily commit the slightest offence, or displease his majesty, it would be unsafe to appear in his presence without having previously sent his peace offering.

If the chief or master of a homestead committed a crime which was punishable by death, all the members of his homestead were also killed, and their cattle

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<sup>31</sup>. N. Isaacs, Travels and Adventures in Eastern Africa (Cape Town, 1970), pp. 296-7. Isaacs travelled extensively in eastern Africa and left Natal in 1832, dying in England nearly 40 years later.

confiscated by the king. The king then distributed these cattle to his warriors, who were given the task of executing the guilty parties.

If the cattle of one African were found trespassing in the corn-fields of his neighbour, he was required to compensate his neighbour with a cow or a calf, in accordance with the damage they had caused. The errant herdsman was punished by being beaten with sticks in a way that generally made a lasting impression.

If one African offended another, he was obliged to send a peace offering to the offended person in order to achieve reconciliation.

During a criminal investigation, the contending parties, as well as any witnesses, were questioned in great detail, having sworn the most sacred oath to tell the truth by an appeal to the *issetator* or spirit of their forefathers. Once this oath had been sworn, perjury was an heinous offence and was punishable by death.

Although the penalty (death) for crimes of a capital nature did not differ from more 'civilised' nations, Isaacs considered that the executions were "exceedingly revolting" and only to be found among "barbarous hordes".<sup>(32)</sup> Executions followed the sentence "quick as the thunderbolt pursues the flash," and often ten minutes were not permitted to elapse between life and eternity. The bodies of the executed were left to be devoured by wild animals.

Crimes against property in traditional Zulu society can be considered under three broad headings :-

a) Theft - Though rarely committed, theft appears to have been both a crime (public wrong) and a delict (civil wrong). Thieves were classified as manifest and non-manifest thieves. The former were criminals who were caught in the act of stealing and were usually punished by death. The latter were those who were not caught red-handed. They were, as a rule, expected to restore the stolen property or its equivalent value.<sup>(33)</sup>

A person suspected of stealing garden produce was detected in a rather unusual way. When the theft of crops was suspected, part of the corn or maize was taken from the field and put into the nest of a *thekwane* (hamerkop), which was then burnt. This would also cause the house in which the suspect was at that moment to catch fire. This served as a clue to the identity of the criminal.

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<sup>32</sup>. Ibid.

<sup>33</sup>. I. Schapera, The Bantu-Speaking Tribes of South Africa (Cape Town, 1966), p. 198.

Zulus who stole by force in retaliation were not regarded as criminals. If any man, by stealing, could promote the interest of his king and his tribe, or if his stealing crippled his king's enemies, his crime was condoned. Indeed, such an act won him public approval and universal applause. In this instance, theft was looked upon as an advantage to the king. <sup>(34)</sup>

Any theft, however, that prejudiced the interests of the king or the social unit was viewed in a very serious light. For this reason the notorious Zulu chief, Gcugcwa, was put to death by torture after stealing King Shaka's cattle.

b) Stocktheft - The illegal removal of stock was one of the most important of the property crimes and was severely punished. Shaka, for example, punished stocktheft with death. <sup>(35)</sup> According to Farrer, cattle-stealing was rarely committed after Shaka's attempts to suppress it in the 1820s. <sup>(36)</sup> The fine for cattle-stealing, even if only one beast was taken, was generally ten head of cattle. The fine of ten cattle was often paid in the form of half a dozen cattle plus some calabashes, assagais, axes, etc. which were called cattle for the occasion. A man staying at a homestead as a guest held the owner of that homestead responsible for all theft of his possessions while under his roof. Payment of debt was allowed over a long period of time; when a man could not pay, his relations were obliged to help him, and the unpaid debts of a man descended to his son after his death. <sup>(37)</sup>

The spoor laws were usually applied to determine the culprits; the homestead to which or near which the spoor of the stolen cattle were traced was held responsible for the theft unless it could trace the spoor further. <sup>(38)</sup> According to Kidd, this practice was "quite a recent importation" and was "European in origin". In his opinion, it was "hardly a native characteristic." <sup>(39)</sup> The custom had been introduced by Gaika in 1817 on the representation of the European authorities who complained that the Africans were stealing their oxen. The plan instituted at that time was as follows: "If people were following up the spoor of stolen cattle, and could trace the marks to within about six hundred yards of a kraal, they would give over the pursuit, and call on the people of that kraal to carry it on, or else point out the spoor for a similar distance from their kraal. If they refused to do this they came under

<sup>34</sup>. D. Kidd, The Essential Kafir (London, 1904), p. 357.

<sup>35</sup>. E.J. Krige, The Social System of the Zulus (Pietermaritzburg, 1974), p. 229.

<sup>36</sup>. J.A. Farrer, Zululand and the Zulus (London, 1879), p. 102.

<sup>37</sup>. D. Kidd, op. cit., p. 357.

<sup>38</sup>. E.J. Krige, op. cit., p. 229.

<sup>39</sup>. D. Kidd, op. cit., p. 357.

suspicion, though the chief would by no means invariably fine them for refusing to take the matter up." (40)

The reception of stolen goods was a punishable offence, but it was permissible to eat the meat of stolen oxen, provided this was not done to hide the thieves.

Many lawsuits also arose out of the *ukusisa* custom, a custom by which cattle or other live stock were deposited by their owner into the care of some other person on the understanding that such person would enjoy the use of them, but that the ownership would remain with and increase accrue to the depositor. (41) The person to whom the cattle had been "lent" had to give a full account of the increase or decrease of the cattle. If he failed to satisfy the owner with his explanation, his action would amount to theft.

c) Encroachment upon the Fields of Others - Cases of encroachment, called trespassing, arson or malicious damage to property in the law of the white man, was not usually an actionable wrong. The transgressor was simply asked to move away. If he continued to trespass, he was forcibly ejected, if necessary with the help of the messengers from the tribal courts. (42) Cattle, which entered a field and caused damage to the crops of the farmer, entitled the owner to compensation. Usually the two contending parties would inspect the damage together and settle the matter between themselves. If they could not agree, the matter was taken to court. Messengers would then be sent to assess the damage and compensation was awarded. According to Kidd, retaliation was permitted in the case of cattle straying into the gardens of others; the women used to be allowed to drive the oxen back into the gardens of their owners. (43) Injury to property which was purely accidental and inevitable was not punishable; this did not include bites by dogs, grass fires or damage done by cattle to gardens.

Damage to other forms of property entitled the owner to restitution. In the case of arson or other forms of damage to property, compensation often greatly exceeded the value of the damaged property. (44)

<sup>40</sup>. D. Kidd, *op. cit.*, p. 358.

<sup>41</sup>. Section 1 (1) of the Natal Code of Bantu Law. cited in G.L. Ndabandaba, 'Crime in Mtunzini' (M.A. thesis, University of Zululand, 1974), p. 41.

<sup>42</sup>. I. Schapera, *op. cit.*, pp. 206-7.

<sup>43</sup>. D. Kidd, *op. cit.*, p. 358.

<sup>44</sup>. I. Schapera, *op. cit.*, p. 207.

The foregoing discussion of crime and punishment in pre-colonial Zulu society shows clearly that the perception of white settlers that the Zulus were a lawless and criminal people, living in a society which appeared to condone crime and in which crime generally went unpunished, was inaccurate. On the contrary, a detailed code of conduct was in existence and wrong-doing was punished frequently, often in the most severe manner.

When considering the nature and extent of property crimes committed during the 1860s, it is useful to examine the state of the colonial economy at this time in order to determine the relationship, if any, between the commitment of crimes against property and the prevailing state of the economy. At the start of the decade the colony enjoyed strong economic prosperity, including a banking boom from 1861-2. This was followed by a moderate recession during the years 1862-3, but renewed economic activity during 1864-5 appeared to point in the direction of a new period of growth. This, unfortunately, did not materialise and in 1865 Natal was hit by a banking and financial crisis. A severe economic depression followed during the years 1865-9, described by Schumann as "one of the most severe South Africa experienced during the nineteenth century." (<sup>45</sup>) A sudden fall in prices and a fall in imports and a sharp decrease in the flow of investment, led to a worsening of the economic climate. (<sup>46</sup>) The table below reflects these trends:-

	<u>Imports</u> (£)	<u>Exports</u> (£)	<u>Revenue</u> (£)
1864	592 000	220 000	138 000
1865	455 000	210 000	106 000
1866	263 000	203 000	95 000
1867	270 000	226 000	97 000
1868	317 000	272 000	96 000
1869	380 000	363 000	115 000
1870	430 000	383 000	126 000

The depression affected the agricultural and commercial sectors in particular as these were the main areas of enterprise in the colony during this period. This general depression, which struck England and Europe at the same time, also adversely affected the British economy as the cotton markets in India collapsed after the resumption of southern American imports at the end of the Civil War. The economy of Natal was inextricably linked with Britain and her colonies since raw materials such as sugar and wool were exported to Britain and the Cape Colony.

<sup>45</sup>. C.G.W. Schumann, Structural Changes and Business Cycles in South Africa, 1806 - 1936 (London, 1938), p. 81.

<sup>46</sup>. NBB, 1898, Statistical Summary of Revenue and Expenditure for years 1848-1898 of Colony of Natal. cited in N. Ramdhani, op. cit., p. 65.

Between the years 1861-1863 about two-thirds of the total value of exports amounting to about £248 000 went to England. <sup>(47)</sup>

The depression was further aggravated by the outbreak of hostilities in 1865 between the Orange Free State aided by their Transvaal allies, and the Basutos, which disrupted the Overberg trade. <sup>(48)</sup> The fortunes of the colony's farmers also underwent a change for the worse as heavy rains retarded agricultural production in 1865. Sheep farmers had to contend with the outbreak of stock diseases, notably blue tongue, while the price of wool dropped sharply. As a result of the depression, international and regional instability, investments in South Africa dwindled significantly. All these factors helped to create a deficit crisis in Natal in which the expenditure of the colony exceeded the revenue during the years 1865-1867:- <sup>(49)</sup>

	<u>Deficits</u>
1865	-£12 000
1866	-£25 000
1867	-£27 000

The Natal Witness summed up Natal's economic position as follows: "From a career of prosperity, Natal is now in a state of stagnation, especially of trade." <sup>(50)</sup>

The sugar industry also fell under the dark cloud of depression as many sugar estates went insolvent or experienced financial difficulties. This state of affairs was again linked to the depression in Britain as this country was one of the two main markets for Natal sugar as well as a source of investment capital. <sup>(51)</sup> Many planters who had invested in land and machinery by obtaining loans from banks were ruined. The sugar industry also suffered from a continuing shortage of labour. As production levels declined, the Natal Government recruiting agencies for Indian indentured labour closed temporarily so that when the industry recovered in the late 1860s it was again faced with the problem of obtaining a "reliable" year round labour force. As Indians completed their five-year period of indenture, and so became free agents, many chose to leave the estates for the less strenuous conditions of domestic service or self-employment, thus exacerbating the so-called labour shortage. The labour crisis was further aggravated when the Indian Government

<sup>47</sup>. M.F. Bitensky, 'The Economic Development of Natal, 1843-1885' (M.A. thesis, London School of Economics, 1954), p. 221.

<sup>48</sup>. M.F. Bitensky, op. cit., p. 218.

<sup>49</sup>. NBB, 1898. cited in N. Ramdhani, op. cit., p. 65.

<sup>50</sup>. NW, 14 April 1865.

<sup>51</sup>. M.F. Bitensky, op. cit., p. 117.

refused to allow the resumption of Indian immigration until better conditions of employment were guaranteed for indentures by the Natal colonial authorities. <sup>(52)</sup>

Crimes against property in Durban in the early 1860s were few and far between. The property of colonists was generally safe against the ravages of both white and black thieves who only began to flex their criminal muscles from the latter part of the 1860s onwards. But there were a number of isolated cases which were indicative of more to come in the years which lay ahead. In March 1860 the Natal Mercury reported that at the last circuit court held for the counties of Durban and Victoria serious crimes such as arson, burglary, forgery and sodomy had been subjects for conviction, and that since then a series of daring robberies on mercantile stores had taken place. <sup>(53)</sup> These robberies included jewellery to the value of £300, guns, pistols and cash boxes. Although several articles, chiefly empty cash boxes, had been found, the robbers themselves were still at large. Suspicion rested on a man who had recently arrived in the town and who was said to be hiding in the neighbouring bush. Other minor burglaries and attempts at burglary had also taken place, prompting the Natal Mercury to state that, "This is not a favourable indication of our social state; but it was to be expected that as the fame of the colony spread, bad characters would be attracted towards it, on criminal adventures." <sup>(54)</sup> These events, however, had taught the residents of Durban two important lessons: to be more careful about securing their house fastenings and to establish a more effective system of police.

In the same year, a columnist writing for the Natal Mercury under the pseudonym 'Rumour', painted a rather gloomy picture of Durban as it entered the 1860s. Although writing with a large degree of wit, there was also more than an element of truth to his article:

In the last week, ... Dark rumours of horrible assassinations have been floating about the town. Mysterious stories of bloody blows from unseen bludgeons, delivered on somebody's head in the Berea bush, have been horrifying everybody. Sailors from the Point have been unaccountably made away with. Ghostly Kafirs have been seen haunting the bush path, with knobkerries in their hands and unutterable ferocity in their faces. Pockets have been pillaged, and other atrocious and diabolical breaches of the peace committed. So says rumour, and the gullible public has easily swallowed the mouthful. Berea residents, given to nervous forebodings, have been quaking for their lives. Doleful predictions have been indulged in about the final contamination of our

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<sup>52</sup>. M.F. Bitensky, *op. cit.*, pp. 201-202.

<sup>53</sup>. NM, 15 March 1860.

<sup>54</sup>. Ibid.

morals. The halcyon period we have so long enjoyed, free from the thought of either thief or assassin has, it was said, come [to an end] at last. Our civilisation is becoming complete, and we must henceforward expect to be robbed, garotted, and murdered like Her Majesty's subjects elsewhere. <sup>(55)</sup>

There is no doubt that as the Colony of Natal entered the 1860s it began to leave behind, forever, those restful and rustic days which had characterised the early colonial period. The advance of civilisation, in the form of urbanised white settlement, brought with it, almost inevitably, crime and criminals. While it had been wild animals that had tested and tormented the early adventurers and settlers in the region, it was now the black man, principally Africans and to a lesser extent Indians, who settled in the neurotic mind of white colonials and appeared to threaten the very fabric of a colony which whites regarded as their own.

Towards the end of 1860 a series of "outrageous" robberies shook the Durban community, while cattle-stealing by Africans appeared to be on the increase, being regarded as "a natural consequence of an expanding civilisation." <sup>(56)</sup> As with most crimes committed in the Colony of Natal, sentences imposed upon black people for property offences tended to be harsher than those handed down to white offenders. Thomas O' Brien, for example, charged with stealing a gun, a gun cover, a horse, a bridle and a saddle, was sentenced to six months' imprisonment with hard labour. The Judge remarked that it was "an aggravated case of breach of confidence and trust." <sup>(57)</sup> Joaquim, on the other hand, a Portuguese man, charged with house-breaking and theft, received six months' imprisonment with hard labour, in addition to 40 lashes. He had apparently abused the hospitality of a fellow Portuguese. <sup>(58)</sup> Blacks often received a flogging as part of their sentence in the belief that such punishment would impress upon them the wrongness of their deed. It was further believed that corporal punishment was especially appropriate for a 'savage' and that since Africans were like children, a "good hiding" could have a very beneficial effect.

Not all whites, however, could be sure of a lenient hearing. Thomas Petty, for instance, indicted on a charge of shop-breaking and theft, was sentenced to two years' in prison, Chief Justice Harding feeling bound to pass a sentence which would be a warning to others, and give the prisoner time for repentance. <sup>(59)</sup>

<sup>55</sup>. NM, 15 Nov. 1860.

<sup>56</sup>. NM, 17 Jan. 1861.

<sup>57</sup>. NM, 8 June 1861.

<sup>58</sup>. NM, 20 June 1861.

<sup>59</sup>. Ibid.

Natalians often pointed to the two Boer Republics, the Orange Free State and the Transvaal, as having a laudable and desirable policy towards African criminals. The Boers considered that neither fines nor imprisonment would make a favourable impression on African criminals; Africans did not possess much money, while prison amounted to nothing more than free board and lodging at the expense of the Government. Even hard labour was thought to be a farce. Gangs of convicts were to be seen supposedly carrying out maintenance on the public roads, but instead sitting on a stone or ant-hill with their warders enjoying a chat. Prisoners who were condemned to hard labour wore chains, fastened on both legs above the foot. But they were allowed to neutralise the weight of the chain to a certain extent by lifting it up with a rope fastened above the hips. For these reasons, Africans in the Republics were frequently punished with the cat-o'-nine tails. According to Kok, whipping was the most appropriate form of punishment for African wrong-doers because it was part of their culture and had a definite deterrent effect:

Every black man is acquainted with whipping. Kafir parents do not fine or lock their children up by way of punishment, but they keep a rope or rod in pickle for use as often as occasion arises. It is a kind of punishment which the Ethiopian malefactor remembers long enough to make him shrink from a repetition of evil deeds - far better than the modern way of locking him up in company with other and, perhaps, worse criminals, from whose society he is in danger of learning ideas which will make him a good deal worse than he was before going to prison. <sup>(60)</sup>

Like most whites, Kok believed that corporal punishment was not degrading to Africans since they did not enjoy any social status and did not lose any prestige among their fellows for having suffered under the white man's laws.

Under the Boer administration of the Transvaal and the Orange Free State an African criminal received from fifteen to twenty-five lashes, according to the magnitude of the crime. For more serious crimes, he might receive over 25 lashes, but more than 40 were never administered. Africans who were sentenced to receive 40 lashes were allowed to receive them in two instalments, viz., twenty on entering gaol and a further twenty on leaving. Kok claimed that "before the new-fangled ideas as to the administration of justice were introduced into South Africa" <sup>(61)</sup> he had witnessed an African being whipped on the market square in Pietermaritzburg. The man had received 75 lashes at the whipping-post. The date was August 1860, a mere two days before Prince Alfred and Sir George Grey were due to visit the city. A

<sup>60</sup>. K.J. De Kok, Empires of the Veld (Cape Town, 1904), pp. 140-1.

<sup>61</sup>. K.J. De Kok, op. cit., p. 141.

surgeon reportedly examined the African after he had received the first half of his punishment, and found him fit to stand the remainder. <sup>(62)</sup>

In 1862 the Superintendent of Police for Durban, R.F. Bennett, reported that several attempts had been made by Africans to commit robberies in dwelling houses and that negligence in regard to doors and windows had undoubtedly been the inducing cause. <sup>(63)</sup> The reports of his night patrols had "expose[d] on the part of the inhabitants a most extraordinary degree of carelessness." <sup>(64)</sup> Reports in the colonial press under headings such as "Daring Robbery", "Another Outrage" and "Burglarious Outrages" indicate that housebreaking by Africans was perceived as a serious problem for the white residents of Durban. Whites were beginning to feel that nothing, neither their person nor their property, was safe from "kafir outrage". The Natal Mercury reported that "Civilisation is marching on with rapid strides. The housebreaking mania seems to be infectious and we have to add two more instances to the list of warnings that a condition of primitive security has been superseded." <sup>(65)</sup> Civilization was reported to be "not only unfolding, but bearing fruit." <sup>(66)</sup> It was noted that attempted burglary by Africans was "a novel thing" and that this tendency should be "crushed in the bud by every repressive measure." <sup>(67)</sup>

NR { Despite talk and reports in the press of numerous cases of house-breaking in Durban, the criminal statistics suggest that the problem may have been more imaginary than real; the psychological fear factor appeared to cause many a break-in. In 1863, for example, six whites were convicted for burglary, and only one African. In 1864 only one white and a single African were convicted for this crime. <sup>(68)</sup> No Indians were convicted during this period. Residents would no doubt have argued that many more cases of house-breaking were carried out, but the inefficacy of the police and the difficulty of recognising the alleged miscreants made conviction extremely unlikely. <sup>(69)</sup> The criminal statistics do suggest, however, that the high incidence of theft was no figment of the colonial imagination, and was in fact the third most prolific crime (after drunkenness and misconduct in service) in the

<sup>62</sup>. Ibid.

<sup>63</sup>. NM, 7 Feb. 1862.

<sup>64</sup>. Ibid.

<sup>65</sup>. NM, 30 Dec. 1862.

<sup>66</sup>. NM, 4 Nov. 1862.

<sup>67</sup>. NM, 16 Dec. 1862.

<sup>68</sup>. Report of R.F. Bennett, Superintendent of Police for the Borough of Durban. cited in NM, 11 March 1865.

<sup>69</sup>. Many whites argued, and still do, that most Africans looked very similar in appearance. Not surprisingly, many Africans have expressed similar sentiments about their white brethren. Whites also complained that it was virtually impossible to recognise a black face on a dark night.

borough at this time. It was also on the increase, especially among the Indian and African populations. The following convictions for theft were recorded in the Borough of Durban during the period 1863-5:- <sup>(70)</sup>

	<u>1863</u>	<u>1864</u>	<u>1865</u>
Whites	23	25	27
Indians	15	27	42
Africans	44	57	110
	(82)	(109)	(179)

The population figures for Durban for 1864 reveal that the different races were represented as follows:-

White men	1 706
White women	1 317
Coloured men	1 303
Coloured women	310
<sup>(71)</sup>	

Thus the borough's 1 613 black residents contrived to commit two to five times more thefts than the 3 023 whites living in the area. The majority of Durban's black population belonged to the labouring class, with many of the men working as domestic servants in white homes. Unskilled work, at places such as the harbour, was generally the order of the day. These low-class workers, like their brethren throughout the world, were often victims of a lack of education and moral training from the cradle. Faced by the reality of their own lowly position in society and their relatively poor material position compared to the majority of white people, these people often succumbed to the temptations of improving their wealth by stealing from others. Since in the Colony of Natal whites were generally the "Haves" and blacks the "Have-nots", this meant that for the most part thefts were perpetrated by Africans and Indians on the property of whites. This appeared to confirm the almost universally held stereo-type among whites that town Africans and Indians were fundamentally dishonest by nature.

The year 1863 saw a spate of burglaries of shops in Durban. The Natal Mercury reported that "the security of property imperatively demands unremitting energy in searching out the whereabouts of the well organised gang whose wholesale depredations we have lately reported. The removal of such large masses of merchandise cannot be effected without great risk of detection, and it is to be hoped

<sup>70</sup>. MM, Dbn, 1863-5.

<sup>71</sup>. Coloured would have included Africans, Indians, and other people of colour. MM, Dbn, 1864.

our active police will not allow these astute burglars to fool them." (72) In many cases the thieves appeared to be experts, carrying out well planned burglaries with very successful results. Handley and Dixon's, for example, situated in a public thoroughfare, suffered a "comprehensive and bulky theft" without discovery. (73) The thieves apparently entered the store by the back door using false keys and stole property to the value of nearly £150. (74) The thieves who robbed the premises of Blackwood, Couper, and Co. caused no damage either to the door or the window. By April six white people, including the mother of a young family, were under suspicion for the commission of these crimes. But although the Resident Magistrate was prepared to issue warrants for their arrest, the store-owners who had had goods stolen were told to execute them at their own expense. It appears that since the police had been handed over to the Corporation, only a single policeman had been left in attendance at the Magistrate's Court, meaning that the judicial institutions did not have the means of carrying into effect the law they were attempting to administer. The Resident Magistrate was willing to swear in, for the special duty of apprehension, any party whom the prosecutors might appoint, but it would have to be at their expense. It is not clear whether the accused were ever found guilty. (75)

In Maritzburg the burglary of shops began approximately a year later than in Durban, thieves in the capital appearing to learn from their coastal counterparts. By early 1864 the press in Maritzburg was beginning to carry stories about shop-breaking. These burglaries are an indication that Natal was beginning to move away from the innocence of childhood towards a more developed society in which criminal activity would always be present to frustrate and frighten the honest section of colonial society.

The crime of house-breaking received its first mention in the Natal Mercury in 1864. In this particular instance, the erring African received a warm reception, apparently suffering a severe flesh wound from a sword. The Natal Mercury commented that "these burglarious entries into private houses, with the vilest intentions, must be checked by punishments of the most stern and startling nature." (76) An Englishman's house was his castle, a place where he could retire from the trials and tribulations of the outside world. Any attempt to breach these defences would be met by the greatest indignation and anger. This became manifestly clear during the two rape scare periods of 1866-71 and 1886-7 when passionate demands were made

<sup>72</sup>. NM, 24 Feb. 1863.

<sup>73</sup>. Ibid.

<sup>74</sup>. NM, 20 Feb. 1863.

<sup>75</sup>. NM, 14 April 1863.

<sup>76</sup>. NM, 12 April 1864.

that the harshest penalties imaginable be imposed on house-breakers who appeared to have immoral designs on white women and their daughters.)

X It was only from about 1866 onwards that house-breaking became more common and began to affect the lives of the colony's residents in a material manner.) In January of that year the Natal Mercury published the following warning - "Wholesale Robberies - Householders Look Out." It warned people that a series of burglaries and thefts showed that "bolts and bars, as well as vigilance, are necessities just now." (77) In a series of incidents, a writing desk containing £36 had been stolen, a pistol had been removed from under the pillow of a man sleeping in an inn at the west end of the town and clothing hanging from lines had been made away with in more than one instance. (78) It was believed that a trained gang of thieves was located in the town.

By early 1867 these so-called robberies began to attract the attention of the Durban Corporation. Residents of the East End of Durban memorialised the Corporation on this subject, demanding that action be taken to ensure the safety of the borough. It was proposed to organize a night patrol by African police. The Natal Mercury regarded this proposal as "really the great thing wanted for the emergency." (79) House-breaking had become "really serious" and was attracting the passionate attention of all concerned colonists. (80) These cases were often perceived as attempted outrages on white women and their daughters, and are therefore discussed more fully in the chapter on Social Crimes. Stories of "villainous kafirs" attempting to enter white homes with the alleged intention of raping women and children, and often being pursued by "anxious and exasperated" fathers filled the colony's newspapers to overflowing, and did nothing for the psychological state of white colonial minds. X Sentencing for burglaries tended to reflect the atmosphere of fear pervading Natal at the time. For example, an African boy aged about 17 or 18, convicted of breaking into certain premises in Pietermaritzburg, and who was a second offender, was sent to prison for seven years with hard labour, and received a whipping of 40 lashes. X (81) In a rather bizarre case, two men were found guilty of breaking into the jail at Maritzburg; the one, an old offender, was sentenced to five years' imprisonment with 20 lashes, the other to three years' with hard labour. (82)

77. NM, 16 Jan. 1866.

78. Ibid.

79. NM, 7 March 1867.

80. Ibid.

81. NM, 29 Jan. 1867.

82. Ibid.

From 1866 until the end of the decade, the Natal Mercury is littered with numerous cases of petty theft, indicating both the economic depression which descended on the colony during this period and the fact that Natal was advancing down the road to so-called 'civilization'. Ironically, as the colony became more 'civilised', so criminal activity also increased. The vast majority of these petty thefts were committed by Africans and Indians. The Natal Mercury reported that petty larceny amongst Africans was becoming far more common than it ever had been: "Following the bad example of the coolies our Zulu servitors are in danger of losing the character they have borne for comparative honesty. Only the other day a homegoing Kafir, leaving his master's service, was convicted of having in his pack many little house-hold knick-knacks, which he had pilfered from neighbouring houses." <sup>(83)</sup> In Maritzburg too African thieves began to make their presence felt and several indictments against them came before the criminal sessions. The Natal Witness regarded this situation as remarkable since "our Kafirs are, as a rule, honest." <sup>(84)</sup> The refreshing honesty of African servants and the African population generally, so evident in the 1840s and 1850s, had begun to evaporate during the 1860s as the ravages and attractions of civilization started to waylay previously honest people. While there was little economic pressure during the 1860s forcing Africans to move to the white urban areas, the perceived attractions of town life (such as access to European liquors and African women, and freedom from parental and tribal bonds) began to draw many Africans into the towns. In 1867 the African population of the County of Durban increased dramatically (1866: 6 117; 1867: 19 787). As these people became more detached from their tribal roots and came to acquire a degree of European materialism, dishonest individuals often found the temptations of theft too great. African poverty was not a major cause of property offences during the 1860s. Black farmers continued to be self-supporting, engaging successfully in subsistence and peasant agriculture, and were thus far unscathed by the advance of white settlement.

Sentences for these thefts were generally light, but were not always consistent with the severity of the crime. For example, Moorogan, an Indian, charged with stealing a "considerable quantity" of mealies, was sent to prison for a week, with hard labour, and ordered to receive six lashes, <sup>(85)</sup> while Pompey, an African, who stole a handkerchief, received three months' imprisonment with hard labour, and 24 lashes. <sup>(86)</sup> It appears that the whims of the magistrates often determined the nature and severity of the punishment. Perennial offenders, such as Moyake, an African who

<sup>83</sup>. NM, 12 May 1866.

<sup>84</sup>. NW, 24 Sept. 1867.

<sup>85</sup>. NM, 8 March 1866.

<sup>86</sup>. NM, 22 Feb. 1866.

stole two shirts but admitted four previous convictions for theft, were likely to be severely dealt with; he received 18 months' hard labour and 50 lashes for his indiscretion. <sup>(87)</sup> There was no obvious attempt or policy to punish blacks more severely than whites, but discriminatory sentencing did happen on occasions, nearly always to the detriment of black interests.)

Offenders who were sent to the Circuit Courts for committing more serious thefts received far more severe penalties than those handed down in the courts of the Resident Magistrates. For example, Uziki, an African, charged with having stolen a bag containing £6 10s. was sent to gaol for twelve months with hard labour. <sup>(88)</sup> Even whites did not escape the short arm of the Circuit Courts; a carpenter called Wilson received the same sentence on conviction for theft. <sup>(89)</sup> Another white man by the name of Clark was sentenced to four years' imprisonment with hard labour for stealing two horses and various other thefts at Umhlali. <sup>(90)</sup>

By 1869 the Natal Mercury felt obliged to warn Durbanites that they needed "now to look more after their property than, perhaps, they have ever had at any period of their history." <sup>(91)</sup> The number of thefts and robberies committed in the town and its neighbourhood had apparently increased, and white men were said to be involved in some of these crimes. <sup>(92)</sup> Such men were regarded as outcasts of society and were severely castigated by fellow whites for letting down the white race and for setting a poor example for Africans to follow.

As early as 1855 the Natal colonial government enacted legislation to more effectively check and punish the stealing of cattle. Ordinance No. 1 of 1855 was overtly racial in tone and content, aimed specifically at Natal's African population. It noted that the practice of cattle-stealing by Africans within Her Majesty's settlements in South Africa had not only retarded the prosperity of these settlements by rendering that kind of property insecure, but had also been the frequent cause of wars and insurrection. Complaints had been received from white farmers that there were inadequate means to check cattle-stealing and to punish the offenders. It was considered that "Native Law" was better suited to check this crime than the ordinary law of the District, but unfortunately it did not apply to cases of theft committed by Africans on the property of white inhabitants. As a result, Ordinance No. 1 of 1855

<sup>87</sup>. NM, 26 May 1866.

<sup>88</sup>. NM, 23 Oct. 1863.

<sup>89</sup>. NM, 3 Jan. 1866.

<sup>90</sup>. NM, 13 Oct. 1866.

<sup>91</sup>. NM, 16 Jan. 1869.

<sup>92</sup>. Unfortunately, no figures are available for thefts committed in Durban during the period 1865-9.

was passed in order to extend the operation of Native Law to thefts of cattle committed by Africans "under all circumstances whatever."<sup>(93)</sup>

The most important provisions of the new Ordinance were as follows:-

- (i) In future, Africans wishing to drive or lead cattle through any part of the District of Natal would require a written pass signed by a Magistrate, Justice of the Peace, Field Cornet or "some other inhabitant", specifying the number of cattle, the place from whence the African had come and his destination, and the place of abode of the person granting the pass. Clearly Africans were not regarded as "inhabitants" of Natal and would not be allowed to sign the envisaged passes.
- (ii) All Magistrates, Justices of the Peace, Field Cornets and Constables had the authority to arrest any African moving cattle without a pass.
- (iii) A person convicted of forging a pass would be liable to imprisonment for any period not exceeding six months with or without hard labour.
- (iv) African villages and homesteads would be responsible for restoring any stolen cattle to their rightful owner.
- (v) A person, village or homestead who knowingly harboured any person who had stolen cattle would forfeit to the Crown a sum not exceeding treble the value of the stolen cattle.
- (vi) The Ordinance provided for extremely harsh penalties:- An African who stole cattle or received stolen cattle was liable to imprisonment with hard labour for any term not less than six months, and not exceeding three years; would be once, twice or three times publicly or privately whipped, receiving on each occasion not more than 50 lashes; and would also forfeit to the Crown all his property of every kind.
- (vii) An African accused of cattle-stealing would be tried by a Combined Court composed of a Judicial Assessor appointed by the Lieutenant-Governor, the Resident Magistrate of the County or Division in which the offence was alleged to have taken place or in which the accused resided, and the chief of the tribe to which the accused party belonged.

Despite this early legislative action, cattle-stealing in Natal did not appear to be a major problem by 1860. The Natal Witness remarked that, considering the population was composed chiefly of Africans, the sparse distribution of farm homesteads, and the fact that Natal's borders were open on all sides and likely to present the easiest possible egress to the cattle lifter, it was surprising that losses of stock by theft were so small.<sup>(94)</sup> It recommended that steps be taken to check any growth in this potentially lucrative business. By 1862 the Natal Witness could still

<sup>93</sup>. NGG, 20 Feb. 1855.

<sup>94</sup>. NW, 19 Oct. 1860.

report that surprisingly few cases of cattle-stealing were taking place. <sup>(95)</sup> Herds of cattle and troops of horses could still run untended over the country in relative safety. When a theft was perpetrated, the Combined Court inflicted severe punishments on the thief in order to deter Africans from committing further thefts. For example, an African who pleaded guilty to the charge of having stolen three oxen, was sentenced to two floggings and three years' imprisonment with hard labour. <sup>(96)</sup> The white authorities were always quick to point out that while these penalties were severe, an African who committed stock thefts in his own society might have suffered death as his punishment.

In 1861 it was suggested before the House that it was "absolutely necessary that immediate steps be taken to establish a mounted police force in this Colony, consisting of not less than one hundred men." <sup>(97)</sup> By nature, this force would deal with agrarian crime, in particular that of stock-stealing. Many colonists believed that such a force would enable the laws of the colony to be carried out more effectually. The mover of the proposal, Mr. Saunders, proposed that the police be stationed in parties of fifteen and twenty men in various parts of the colony, particularly along the borders, with only four or five men based at headquarters in Pietermaritzburg and Durban. One policeman should be stationed at each Magistracy as "a check upon the Kafirs." <sup>(98)</sup> The expense of this corps was estimated at approximately £11 000 per annum, plus an initial amount of £4 000 to equip the force with items such as rifles and horses. The men would apparently repay the cost incurred in equipping them.

W. Harding, the Chief Justice of Natal and a resident since 1845, also believed that a mounted police force could be of use in the colony. <sup>(99)</sup> He recommended that such a force should comprise at least 100 mounted white men, together with 25 Africans to act as guides and to provide information about the African inhabitants of the country. In his opinion, many of the laws of the colony, such as the Arms', Gunpowder and Cattle-Stealing Laws, had fallen into abeyance for want of a proper police force. The establishment of such a force would at least enable these laws to be partially effective.

Horse thefts in the Durban area began as early as 1861 when a number of runaway prisoners in Durban chose to avail themselves of some mobile transport. Even after

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<sup>95</sup>. NW, 9 May 1862.

<sup>96</sup>. Ibid.

<sup>97</sup>. LC, cited in NM, 23 July 1861.

<sup>98</sup>. Ibid.

<sup>99</sup>. Evidence taken before the Police Committee, cited in NM, 1 Aug. 1861.

their capture, horse thefts continued, prompting the Natal Mercury to call for mounted patrols around the city to prevent "the escape of the daring rogues who have thus been rifling the stables of the worthy citizens." <sup>(100)</sup> In Maritzburg horse stealing appears to have become a problem from about 1864 onwards. The Natal Witness reported that "every day brings fresh tidings of horses having been stolen or missing", <sup>(101)</sup> but it seems that most of these alleged thefts were nothing more than animals straying away. <sup>(102)</sup>

By 1863 a "new and atrocious form of social crime" began to develop in some of the coastal districts, especially in Victoria County and Durban County. <sup>(103)</sup> The crime of cattle-stabbing caused widespread consternation and anger among coastal farmers: "It is now no longer an isolated case that excites curiosity at the strange wilfulness of the act, but it is a long series of outrages, following each other in quick succession, that creates suspicion, if not alarm." <sup>(104)</sup> The crime often spread like an epidemic; if one beast was stabbed, others were sure to share the same fate shortly afterwards. These atrocities were being committed not only in the neighbourhood of Verulam, but also at Mount Moreland, the Great Umhlanga, Seacow Lake, and at Springfield. The perpetrators appeared to possess both cunning and malice. Cattle kraals were entered in the dead of night, and beasts deliberately and repeatedly stabbed with assegais. Occasionally, the carcass was opened up and the liver removed. The Natal Mercury concluded that "mere greed of flesh is not then the stimulating motive with these unscrupulous maimers of brute life. Nor has the greed of cattle - so powerful an instinct with the Kafirs - anything to do with the affair. Malice of the most vindictive character is the only reason that can be alleged for the commission of these offences." <sup>(105)</sup> With the value of a good trek ox estimated at about £10, certain farmers were beginning to incur serious losses. The Natal Mercury considered that "our natives have hit upon this diabolical expedient as a new and effective way of resenting their private piques." <sup>(106)</sup> The simultaneous outbreak of these acts throughout a wide locality suggested that Africans might be determined to harass and injure white residents, whose herds of cattle may have excited envy and jealousy in the hearts of a race with which the acquisition of cattle was a ruling passion. But there was no evidence to indicate this, thus forcing the Natal Mercury to conclude "these barbarities as arising from the petty malignity of individual minds." <sup>(107)</sup>

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<sup>100</sup>. NM, 27 July 1861.

<sup>101</sup>. NW, 1 Jan. 1864.

<sup>102</sup>. NW, 25 March 1864.

<sup>103</sup>. NM, 17 April 1863.

<sup>104</sup>. Ibid.

<sup>105</sup>. Ibid.

<sup>106</sup>. Ibid.

<sup>107</sup>. Ibid.

The state of the law in colonial Natal appeared to be cause for concern. District Magistrates had only "miserably ineffective means" of detecting crime, while the anomalies between Native Law and English Law were a further obstacle to the achievement of justice. <sup>(108)</sup> Such cattle-stabbing cases were subject to English Law, but its administrators did not have the means of finding out the culprits, nor of inflicting its penalties. By Native Law an offence of this sort was heavily punishable, even to the point of death, but because the victim was a white man, Native Law was inoperative. The Natal Mercury called on people living in the rural areas to be their own policemen until a thoroughly active police force was organised for duty in the rural districts. It was hoped that the first detachment of Captain Allison's mounted body would go some way towards checking agrarian crime. <sup>(109)</sup>

As was the case with regard to store-breaking, criminals in Maritzburg also tended to lag behind their fellow rogues in Durban when it came to the crime of cattle-stabbing. Only in 1867 did stock farmers in the Maritzburg area begin to complain that their cattle were suffering at the hands of African cattle-stabbers. In that year 15 farmers residing on the northern side of the city petitioned the Pietermaritzburg Town Council on this issue, calling their attention to a "very serious evil." <sup>(110)</sup> They referred to several acts of cattle-stabbing by assegais and called on the Council to remove with the least possible delay the homesteads which were allegedly causing these depredations.

Although whites generally believed that Africans were responsible for cases of cattle-stabbing, investigations produced some interesting culprits. At Sydenham, for example, a "respectable" white man, named Fielder, a resident in Natal for the past ten years, was charged with cutting and maiming five oxen with a hatchet. <sup>(111)</sup> In another case, an African admitted killing a cow belonging to his employer, saying "Missus has nothing to eat but mealies, so I have killed a fine fat cow for her." <sup>(112)</sup> He was sent to the lunatic asylum in Maritzburg. By 1865 cattle-stabbing in the greater Durban area appeared to be on the increase and was not confined to any particular locality. <sup>(113)</sup>

From about 1863 onwards the crime of stock-stealing (cattle and sheep) began to find its way into the colonial press. Although still in its infancy, it began to arouse

<sup>108</sup>. Ibid.

<sup>109</sup>. Ibid.

<sup>110</sup>. NW, 12 June 1867.

<sup>111</sup>. NM, 24 April 1863.

<sup>112</sup>. NM, 5 May 1863.

<sup>113</sup>. NM, 19 Sept. 1865.

the sort of passions among white colonists which merely served to reinforce their perception that most Africans were thieving savages, not to be trusted. The Natal Mercury reported that sheep farmers were suffering considerable losses from "depredations by natives, connived at, there is reason to believe in too many instances, by Kafir shepherds." <sup>(114)</sup> They warned that this was a most serious matter and that farmers should be on their guard "to foil the ingenuity of the astute robbers." <sup>(115)</sup> A Mr. Pinson advertised a £20 reward for information about 75 sheep allegedly stolen from his farm. <sup>(116)</sup> From the Upper Umgeni district came reports of "very frequent" thefts of sheep causing considerable losses to the owners. The crime was blamed on "the rapacity of natives". <sup>(117)</sup> It was hoped that when the mounted police settled at Fort Nottingham, they would put a stop to these occurrences.

Although cattle-stealing did not develop at the same rate as cattle-stabbing, by early 1866 both appeared to be prevalent and on the increase. Reports from the Umzinto area indicated that these cases were becoming "inconveniently common". <sup>(118)</sup> It was estimated that "very considerable" losses were being sustained by stock farmers throughout the colony. <sup>(119)</sup> The victims appeared to be selected at random and included even men such as Mr. Reynolds, considered to be "perhaps the most popular kafir employer in the colony", and who as a result was apparently able to command any amount of labour. <sup>(120)</sup>

Two remedies were proposed for cattle-thieving in an editorial in the Natal Mercury; namely, the investiture of district magistrates with greater power of summary jurisdiction, and the establishment of a more effective police force. <sup>(121)</sup> It was believed that these two, when combined with vigilant self-protective efforts on the part of stock farmers, would be the most effective means of putting down a crime which was thought to be "inborn in the native, and when allowed ample indulgence, will grow into a mania, as difficult to extricate as is Xanthium Spinosum." <sup>(122)</sup> Neither proposal was particularly original and calls for such reforms were heard throughout the colonial period. In the view of the Natal Mercury, "cattle stabbing threatens to become here what cattle stealing is in British Kaffraria - a chronic

<sup>114</sup>. NM, 15 May 1863.

<sup>115</sup>. Ibid.

<sup>116</sup>. NM, 22 May 1863.

<sup>117</sup>. NM, 1 April 1864.

<sup>118</sup>. NM, 3 Jan. 1866.

<sup>119</sup>. Ibid.

<sup>120</sup>. NM, 4 April 1867.

<sup>121</sup>. NM, 13 Sept. 1866.

<sup>122</sup>. Ibid.

calamity." <sup>(123)</sup> In that area, due to Government inactivity, farmers had taken the law into their own hands and were now facing the judicial consequences of their actions. The Natal Government, however, was applauded for its timely intervention, but was criticised for not having taken action earlier when the crime first appeared on the scene.

The Natal Mercury hailed magistrates such as Mr. Moodie, the Magistrate of Alexandra County, for their application of the principle of tribal responsibility in repressing the "growing and grievous evil" of cattle-stabbing. <sup>(124)</sup> This was considered to be the only defence against a crime which was unheard of in the colony up until only four years previously: "If the natives have reason to think that the authorities think light of this atrocious crime, they will go on cattle stabbing for ever, but if they find they are all responsible for [the] commission of it, they will soon give it up." <sup>(125)</sup> Tribal responsibility implied that if the individual doer of the deed could not be detected, then his people had to suffer for his crime. The intention was to encourage members of a tribe to inform against their fellows in order to protect their own skins. Circumstantial evidence was often used to convict an entire tribe or district.

The fairness of applying tribal responsibility to cases of cattle-stealing and stabbing is questionable. In their desire to punish someone for these crimes in order to exact retribution and to discourage further occurrences, whites did not worry too much about who that someone was. Clearly, in many cases innocent people suffered for crimes which they did not commit. A good example is the case involving the stabbing of two cattle belonging to a Mr. Tonneson. The one was found near Tuka's cattle kraal, the other near the kraal of Umhlekwá. In addition, four stabbed cattle belonging to mission Africans were found near Tuka's kraal. The two men were heads of homesteads belonging to the tribe of Umnini. These cattle had been grazing on open pasture ground and had not been near the gardens of local Africans. The fact that the cattle were found near their homesteads was considered to be serious circumstantial evidence against these men. In addition, the fact that no cattle belonging to their kraals had been stabbed virtually confirmed their guilt. The two defendants had nothing to say for themselves, except that they did not stab the cattle. The Magistrate, Justice Millar, soon revealed his line of thinking: "His Worship told the defendants this was a crime of such a malicious nature, and one which tended so much to cause disturbances between the natives and white people, that he was determined to put a stop to it if he could. In this instance the actual

<sup>123</sup> . NM, 15 Jan. 1867.

<sup>124</sup> . Ibid.

<sup>125</sup> . Ibid.

perpetrators could not be discovered, and as administrator of the native law, he was determined to bring the tribal law into force." (126) The Judge ordered each man to give to Mr. Tonneson an ox equal in every respect to the ones stabbed. They were given five days in which to make the payment or else face a heavy fine. The Judge warned that if he found this stabbing occurring again, he would fine the homesteads closest to where it happened at least ten head of cattle. He also cautioned the head of the homestead, Umnini, that if he found any more cattle stabbed on his land, he would fine him "unless he looked sharp." (127)

The vast majority of colonists and administrators believed that the crimes of cattle-stabbing and stealing were of so serious a character, and capable of such widespread extension, that they could not be too severely punished and too rigorously repressed. Accordingly, the sentences handed down by the Combined Court tended to be rather severe and designed to act as a deterrent to aspiring cattle thieves and stabbers. For example, an African named Dingela, who pleaded not guilty to the charge of stealing two goats from Mr. Hyde of Durban, was sentenced to 12 months' imprisonment, 25 lashes and the forfeiture of all his property to the Crown. (128) Another African by the name of Umankayana, who was charged with stealing a heifer and a cow from fellow Africans in the Umhlali area, and who pleaded guilty, received the very severe penalty of three years' imprisonment, 50 lashes and the confiscation of his property of every kind. (129) Mr. Theophilus Shepstone, the Secretary for Native Affairs, who presided over the case with Mr. J. Davies, the Acting Resident Magistrate, expressed the hope that "this would be a lesson to him, and that he would never repeat such a thing." (130) Clearly, the Combined Court did not distinguish between Africans who stole from fellow Africans, and Africans who stole from white colonists; Matumbi, found guilty of stealing a cow and a calf from Mr. James Bell at Umzinto, was sentenced to three years' imprisonment with hard labour, 50 lashes and the forfeiture of all his property, i.e. the identical penalty as Umankayana above. (131) Matumbi's lashes were to be administered in public. In one of the most severe sentences on record, the Combined Court in Maritzburg, consisting of Shepstone and the Resident Magistrate, Mr. Bird, sentenced an African to three years' imprisonment with hard

<sup>126</sup>. NM, 26 March 1868.

<sup>127</sup>. Ibid.

<sup>128</sup>. NM, 15 Feb. 1866.

<sup>129</sup>. Ibid.

<sup>130</sup>. Ibid.

<sup>131</sup>. Ibid. The sentence of 50 lashes was usually divided into two sessions of 25 lashes each, separated by a month or two.

labour, 150 lashes, to be administered at three different times, and the confiscation of all his property to the colonial Government. <sup>(132)</sup>

As the above cases indicate, the lash was considered to be an integral part of the punishment in cases of cattle-stealing and stabbing. Since Africans did not possess much money, a pecuniary fine was a pointless option. Gaol plus a good whipping was the prescribed remedy. Just as children appeared to learn the lessons of life by means of a hiding from their fathers, so Africans, who were perceived by whites as having the mental capacity of a child, could also benefit from corporal punishment. It was also thought that physical punishment would be more appropriate to the 'savage' African since it was foolish to negotiate with an 'uneducated', 'uncultured' and 'war-like' heathen. In their wisdom, therefore, and in their attempts to uplift Africans to the lofty corridors of the Anglo-Saxon culture, whites chose that form of punishment which was more likely to demoralise the African and to reinforce his so-called barbaric qualities. There were a few enlightened exceptions, however, such as Magistrate Mr. Justice Cope who recognised the inherent dangers in handing down sentences involving corporal punishment. When Jantjie, a Griqua with six aliases, who had three previous convictions for thefts, was brought before him charged with stealing two oxen, he sentenced him to five years' imprisonment with hard labour. The judge ascertained that since Jantjie was 12 years old, he had been leading a wandering life and living on plunder alone. He hoped that a long term in prison would reform him and acknowledged that a flogging would only demoralise the prisoner hopelessly. <sup>(133)</sup>

Shepstone believed that the only way to put an end to cattle-stealing was to punish not only the stealer and the receiver, but all people who were cognizant of the crime and did not give information. In court he did not hesitate to put this belief into action. In one particular case, he sentenced Luhai to two years' hard labour and 80 lashes for stealing ten head of cattle; Mahouli, a petty chief, received 12 months' hard labour and 40 lashes for receiving these cattle knowing them to be stolen; and Tambusa, a witness, was sentenced to three months and 25 lashes for "prevarication" in a part of his evidence where he had allegedly endeavoured to throw discredit on the Magistrate and his Induna. <sup>(134)</sup>

The activities of the Combined Court, particularly the nature of sentencing, would have been applauded by white colonists, and would have contributed substantially to

<sup>132</sup>. NM, 2 April 1867.

<sup>133</sup>. NM, 14 Dec. 1867.

<sup>134</sup>. NM, 24 Oct. 1867.

their peace of mind. The Natal Mercury summed up the temperament of many white settlers quite accurately:

Holding, as we tenaciously do, to the belief that firm and high-handed treatment is an essential for the well being of the native as it is for the security of the country where he resides, we are glad to see that the Secretary for Native Affairs, Mr. Shepstone, is determined to visit with wise severity the peculiarly dangerous crime of cattle-stealing. The sentences recently inflicted by the Combined Court, of which that officer is president, were not only rendered necessary by the circumstances of the respective cases, but were well fitted to deter other natives from the commission of similar offences, and to infuse a salutary sense of respect for the Government and the tribunals of justice. <sup>(135)</sup>

In 1868 Natal's legislators felt moved to introduce a Cattle-Stealing Ordinance Amendment Bill into the House. The new bill sought to make a proportionate increase in the punishment for each successive offence (the maximum punishment stood at three years' imprisonment). It also provided that when cattle were traced to a homestead, that homestead should be made to indemnify the owner for any expenses reasonably incurred in searching for them, and gave power to the Combined Court to forfeit the property of the homestead to indemnify the owner. It was also proposed to remove cattle-killing and stabbing cases from the Supreme Court and try these cases in the Combined Court in future. The creation of a special tribunal for the trial of these offences was considered to be a wise move by those intimately acquainted with the African character and with South African history. It was clear to whites that cattle-stealing by Africans was "something more than an ordinary crime amongst Kafir people. It is a political offence of singular significance. Among themselves thefts of cattle may be considered to be acts of war. They are resented by the bloodiest reprisals." <sup>(136)</sup> Concerned colonists always pointed to the Cape frontier wars which were always preceded by "depredations on the part of the natives." <sup>(137)</sup> The intention of the new law was to impress upon Africans the gravity with which whites regarded the crimes of cattle-stealing and stabbing, and to teach them that the commission of such crimes would entail the severest penalties of the law, short of death.

Law No. 4 of 1868, "To repeal and re-enact, with amendments, the Ordinance No. 1, 1855, entitled 'Ordinance to more effectually check and punish the Stealing of Cattle,' and to make provision to more effectually check and punish the crimes of wrongfully and unlawfully killing, stabbing, or wounding cattle, committed by

<sup>135</sup>. NM, 17 Feb. 1866.

<sup>136</sup>. NM, 27 June 1868.

<sup>137</sup>. Ibid.

Natives", was duly passed. <sup>(138)</sup> The following clauses represent the major changes in the law as compared with Ordinance No. 1 of 1855:-

Clause 1 provided that all penalties and forfeitures specified under the previous law would remain in force, unless specifically altered.

Clause 2: Passes could be issued by Resident Magistrates, Justices of the Peace, Field Cornets or any other person on the list of voters under the Charter of Natal, or by the owner of the cattle or his agent. Unlike the previous law, there was now the opportunity for Africans who owned cattle to grant passes to their cattle-hands.

Clause 8: The law provided for even harsher penalties than its predecessor. An African who stole cattle or received stolen cattle or was found guilty of stabbing cattle would, on a first conviction, be imprisoned for any term not exceeding three years; on a second conviction, for any term not exceeding seven years; and on a third, or further conviction, for any term not exceeding 21 years. In addition, on every such conviction, he would be once, twice or three times publicly or privately whipped, receiving on each occasion not more than 50 lashes. He would also forfeit all his property of every kind to the Crown for the use of the Natal Government. This is yet another example of the Natal colonial policy of attempting to solve a social problem by tightening the legislative and punitive shackles in the hope that somehow the problem might be strangled to death. NB

Clause 15: An African convicted of cattle-stealing or stabbing did not have the right of appeal to the Supreme Court.

Clause 18: The Lieutenant Governor was empowered to award any portion of the fine or forfeiture, not exceeding one half thereof, to anyone giving information which resulted in the conviction of the offender.

Cases of cattle-stealing and stabbing continued to occur at regular intervals during the latter part of the 1860s, but the crime never reached epidemic proportions and other crimes such as house-breaking and theft were far more troublesome to the colony's white residents. When cattle cases did arise, they were visited with the usual severe penalties. For example, Finyana was fined £30, a considerable sum of money, for stabbing eight cattle near Isipingo, and ordered to compensate the owners of the cattle by giving them cattle equal in value to the ones he had destroyed. <sup>(139)</sup> Umbulawa, charged with stealing an ox from Mr. Haynes, was sentenced to three years' imprisonment with hard labour and 25 lashes. <sup>(140)</sup> The courts were particularly harsh on Africans who stole horses. Umdumbambi, who stole two chestnut horses, one from a fellow African and the other from Mr. Stickley,

<sup>138</sup>. NGG, 18 August 1868.

<sup>139</sup>. NM, 28 April 1868.

<sup>140</sup>. NM, 10 August 1869.

was sent to gaol for five years with hard labour, received 90 lashes and had all his property confiscated to the Crown. <sup>(141)</sup> An African, who escaped from gaol while serving a sentence of three years and 125 lashes for cattle-stealing, immediately stole a horse belonging to Mr. Groom and received six years' hard labour and 150 lashes for his indiscretion. <sup>(142)</sup> White horse-stealers were also punished severely; John Coolan pleaded guilty to stealing two horses from Mr. Smith of the Masonic Hotel and was sentenced to five years' penal servitude. <sup>(143)</sup>

Unfortunately, the criminal statistics for property crimes, both urban and rural, committed during the 1860s are extremely scanty and it is almost impossible to determine to what extent the state of the economy influenced the incidence of these crimes. Offences against property are tabulated in the Natal Blue Books only from 1869 onwards, while copies of the Mayor's Minutes for Durban are almost non-existent for the 1860s (only 1864 and 1865 appear to be available). The Reports of the Attorney-General only begin in 1873. Given the paucity of statistical evidence for the 1860s, it is necessary to rely almost exclusively on the written evidence.

The Mayor's Minute for Durban reflects that the following thefts were committed by whites, Indians and Africans in the Borough of Durban during the years 1864, 1865 and 1870:- <sup>(144)</sup>

	<u>Whites</u>	<u>Indians</u>	<u>Africans</u>	<u>Total</u>
1864	25	27	57	109
1865	27	42	110	179
1870	17	35	76	128

The above figures reveal that thefts in Durban increased by 64% between 1864 and 1865, but thereafter declined by 28% by the end of the decade. Given the state of the economy prevailing in Natal at this time, these trends are indeed surprising. During 1864-5, when Natal was experiencing renewed economic activity after a moderate recession, the number of thefts actually increased, when the more likely trend would have been a decrease in thieving during a period of relative prosperity. Property offences usually increase during times of depression as factors of want and scarcity encourage/force people to steal that which they do not have or cannot afford. The trend revealed by the above figures for the period 1865-70 is equally surprising. As Natal experienced a severe economic depression between 1865 and

<sup>141</sup>. Ibid.

<sup>142</sup>. NM, 18 Sept. 1869.

<sup>143</sup>. NM, 12 July 1870.

<sup>144</sup>. MM, Dbn, 1864-5, 1870.

1869, one would have expected property offences to increase; on the contrary, however, the incidence of thieving in Durban, according to the criminal statistics, appeared to decrease significantly during these years. <sup>(145)</sup>

While it is impossible to explain the decrease in thefts perpetrated by Durban's white and Indian populations during a period of severe depression, it is reasonable to suggest an explanation for this phenomenon among the borough's African population. During these years of depression (1865-9) there were probably fewer employment opportunities available to Africans in Durban (particularly at the harbour in view of the depressed state of the import and export trade). Many African men therefore left the town during this period and returned to their traditional homes in the countryside. The population figures for the Borough of Durban appear to confirm this movement:- <sup>(146)</sup>

African Male Population - Borough of Durban

1865	912
1866	599
1867	269
1868	1 692
1869	1 511
1870	~1 500
1871	1 527

<sup>(147)</sup>

Between 1865 and 1867, the years of deepest depression, the number of African men in Durban decreased significantly from 912 to a mere 269. <sup>(148)</sup> Since African men were primarily responsible for thefts in the Borough of Durban, the relative

<sup>145</sup>. Articles in the Natal Mercury suggest that petty thieving increased significantly as the colony moved through the 1860s.

<sup>146</sup>. MM, Dbn, 1865-71.

<sup>147</sup>. The African female population of the borough remained relatively small during the 1860s (e.g., 1867: 337 women.) since the bulk of Natal's African women remained in the reserves where they carried on the traditional subsistence agriculture. In view of the nature of their economic activity, they would have been generally unaffected by the depression which hit the colony during the years 1865-9. Considering their small numbers, they are not of concern here.

<sup>148</sup>. To an extent, the historian is at the mercy of his statistics, but it must be borne in mind that the methods of accumulating information for population returns were often primitive and inaccurate. Nevertheless, considering the state of the economy, the above decrease in Durban's African male population is reasonable.

absence of these men during this period accounts for the decrease in this type of crime. (<sup>149</sup>)

From 1868, however, as the economy began to recover (<sup>150</sup>) and African men poured back into Durban to seek new job opportunities, one would have expected the incidence of thieving to increase; since no figures are available for the years 1868-9, it is impossible to know whether or not this did happen, but the figures for thefts committed by African men in Durban during 1870 are lower than those for 1865, despite the fact that the African male population of Durban in 1870 (~ 1 500) was significantly higher than in 1865 (912). This suggests that the incidence of thieving by African men probably did not increase from 1868-9 as they began to return to Durban. As the foregoing discussion indicates, the lack of statistical evidence means that only a speculative interpretation is possible.

A look at the written sources reveals that cattle-stealing and stabbing increased steadily throughout the 1860s so that by 1868 new legislation was passed in an attempt to deal with these problems. It is impossible to gauge to what extent the state of the economy influenced the perpetration of cattle crimes.

Before analysing crimes committed against property during the 1870s, it is important to take note of the state of the economy during this period. Going back to the end of the 1860s, the mere rumour of diamond discoveries in Griqualand in 1869 had been sufficient to stimulate an economic upsurge and with it an increase in imports, and thus in customs revenue. By the early 1870s the opening of the rich Kimberley diamond fields provided a large market for colonial and imported goods and led to a great increase in the customs revenue of both the Cape and Natal. The improved position of the colony's revenue during the 1870s is shown by the following figures, which also reveal the significant contribution of customs to the total revenue:- (<sup>151</sup>)

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- <sup>149</sup>. No figures are available for 1866-7, but since the number of thefts in 1870 was much less than in 1865, it is reasonable to assume that they began to decrease from 1866 onwards. The absence of statistics for thefts committed in Durban during the period 1866-9 makes an enlightened explanation extremely difficult.
- <sup>150</sup>. The table on p. 97 suggests that the recovery may have begun during 1868.
- <sup>151</sup>. NBB, Vol. 1, 1869-1875.

	<u>Total Revenue</u> <u>Excluding</u> <u>Railways (\$)</u>	<u>Customs (\$)</u>	<u>Customs As A % Of</u> <u>Total Revenue</u>
1869	115 000	38 000	33.0
1870	126 000	47 000	37.3
1871	126 000	47 000	37.3
1872	180 000	82 000	45.6
1873	208 000	96 000	46.2
1874	249 000	110 000	44.2
1875	260 000	115 000	44.2

Having revived itself from 1869-70, the economy enjoyed a period of marked prosperity between 1870 and 1875. By 1875, when the Hut Tax was doubled to 14/- per annum, an African labourer (earning 14/- per month) would have had to work for a minimum period of three months in the year (42/-) in order to pay the tax for at least three huts and at the same time, cater for his daily needs. As both the cattle in their possession as well as their cultivation of crops had increased, it was not necessary to purchase many items relating to their daily needs. <sup>(152)</sup> Many Africans remained self-sufficient by the mid-1870s and experienced few difficulties in meeting their tax obligations. <sup>(153)</sup>

Africans appeared to pay the new doubled Hut Tax without serious complaint or resistance. Their remarkable acquiescence can be attributed to the relatively prosperous state of the African population in the mid-1870s and early 1880s. From different districts in 1876, came magistrates' reports which reiterated the prosperous state of the Africans. The Resident Magistrate of Umlazi remarked that "the high wages that Africans now obtain, together with the profitable sale of their superfluous crops as well as the increase in their flocks and herds, tend to rapidly enrich them." <sup>(154)</sup> In addition, the acreage of maize and other crops under cultivation continued to increase. From Ixopo it was reported that "at present the natives grow most of the mealies consumed", while the magistrate of Umsinga noted that, since the white inhabitants of that district did not grow much maize, they depended on the Africans to supply them with it. <sup>(155)</sup> As many Africans were involved in transport riding, they were in possession of many oxen and wagons. Although Africans were required to pay higher rents, as much as £5 per hut on some private lands, they were successful in their economic adaptation to the higher living costs resulting from increased

<sup>152</sup>. H. Slater, *op. cit.*, p. 158.

<sup>153</sup>. With the doubling of the hut tax in 1875, the marriage fee was done away with. The double hut tax brought in considerably more revenue than a hut tax of 7/- and a marriage fee had done.

<sup>154</sup>. NBB, Vol. 1, 1876, Reports of Resident Magistrates.

<sup>155</sup>. Ibid.

taxation and the buoyant economic conditions of the 1870s. <sup>(156)</sup> As a result of the higher prices for farm produce and higher wages for transport riders, it was subsequently reported that the 14/- tax was "cheerfully" paid out of the abundance of agricultural surplus. <sup>(157)</sup>

During the 1850s, 1860s and early 1870s Natal's black peasant farmers competed with white farmers in the production of basic foodstuffs, thus posing an economic threat to the white population. But from the mid-1870s onwards, white farmers switched the emphasis of their activities away from maize crops to the production of crops which could be exported, such as sugar cane. In the Natal Midlands wool production developed into one of the most successful areas of colonial agriculture. From this time, therefore, the threat posed by black farmers ebbed considerably. The moderate recession of 1876, which was followed by a moderate depression from 1876-7, had only a slight retarding effect on the economy. By 1878 a revival had begun and prosperity returned from the following year onwards. Such conditions resulted, firstly, from the prevalence of hostilities on the eastern frontier of the Cape Colony, which caused most of the trade usually passing through that area to be diverted to Natal. During this period the revenue derived from duties on imports and exports increased considerably. Customs and excise returns for 1877 reflect an impressive increase of 100 per cent over the previous year, due to the impetus provided by an increase in the Overberg trade, by the British annexation of the Transvaal in 1877 and also by the presence of a large number of British troops, who were fed, supplied and transported by colonial farmers, merchants and transport riders respectively. <sup>(158)</sup> The double Hut Tax also made a considerable contribution towards the general revenue of the colony. An additional stimulus to the booming economy was provided by the outbreak of the Zulu War of 1879. Natal benefitted greatly from the resultant increase in revenue collected from taxes as well as from the increase in customs revenue. An unusual demand was created for items such as beer, spirits, cheese, tobacco and blankets. <sup>(159)</sup> There were also large increases in most other articles of consumption.

The new decade appeared to start on a decidedly positive note with relatively few property crimes being recorded in the period 1870-73. As the severe depression of the late 1860s receded, so crimes against property reflected a corresponding

<sup>156</sup>. C.J. Bundy, The Rise and Fall of the South African Peasantry, p. 177.

<sup>157</sup>. NBB, Vol. 1, 1876, Reports of Resident Magistrates.

<sup>158</sup>. NBB, Vol. 1, 1880, Report of Collector of Customs.

<sup>159</sup>. NBB, Vol. 1, 1877-1879, Statement of Revenue of Colony of Natal.

decline. Cases of theft and house-breaking, while still in evidence, were relatively less important than they had been in the latter part of the 1860s. Stock-stealing and stabbing, however, continued unabated and was definitely the most important property crime during the 1870s.

By the end of 1873, however, much of the psychological fear factor which had troubled Natal's settler community during the latter part of the 1860s had returned to haunt them once again. The residents of Durban were feeling decidedly nervous, believing that the local police force was incapable of protecting both their property and their persons. Incidences of house-breaking had become "very prevalent" in Durban, <sup>(160)</sup> many being committed "in the most daring and bare-faced manner." <sup>(161)</sup> Premises were being trespassed upon in the broadest daylight, and if the proprietors happened to be out of the way, easily portable goods were removed. Several houses at the West End of the town had been rifled. Fowl-houses appeared to be especially popular among thieves. The colonial press warned house-holders not to leave their houses open or unguarded at any time. The Natal Mercury summed up the situation as follows:

Our Municipal representatives should seriously take into their consideration the present very inadequately protected state of the town. The Police force is so small that it cannot look after the place one half so well as the necessities of the times require. Instead of being able to watch the various localities, their numbers are so small that thieves are able to watch them, and to take advantage of their departure from a particular locality to carry on their nefarious practices there. There is no doubt such is being constantly done now; and, as a consequence, petty thefts, entering houses unlawfully, and such like offences are becoming alarmingly frequent. The perpetrators, too, emboldened by success, commit the offences with a degree of boldness which shows that they are well aware of the small risk they run of being detected. ... it is the duty of the Town Council to give [this matter] early, careful, and practical attention. <sup>(162)</sup>

In 1873 the Lieutenant-Governor, Sir Benjamin Pine, opening the session of the Legislative Council, drew attention to what he described as "the absence of any effective Police" in the colony:

The first duty of a Government, indeed the main purpose for which it exists, is to protect the life and property of its subjects, by means of Laws and Courts of Justice, and an efficient Police. I observe you have enacted very excellent Laws, you have Courts and Magistrates

<sup>160</sup>. NM, 30 Dec. 1873.

<sup>161</sup>. NM, 16 Oct. 1873.

<sup>162</sup>. NM, 30 Dec. 1873.

scattered over the country to expound the Law, but you have no efficient means of carrying out the Law by bringing offenders to justice. You have the head to think and devise, but you have no hand, or a very feeble one, to execute its decisions. I am distressed to hear from many parts of the country that crime goes undetected; that thefts, particularly of sheep and cattle, are frequent; and that the Laws regulating service cannot be carried out.  
(<sup>163</sup>)

Pine indicated that the Government would be introducing a Bill in the near future in order to establish a general Police Force in Natal. He proposed that the Force should consist of 50 men of European descent, mounted and suitably armed, and of 150 Africans, "armed in their fashion." Four or five of the mounted men and a proportionate number of Africans should be stationed at or near the seat of every magistracy, and these men should, as far as practicable, patrol the country and carry out the orders of the magistrates. He proposed further that every considerable estate and farm should have its own local police, consisting of trustworthy labourers or others, who would have the general powers of policemen and would act in concert with the country police. It was intended that the General Police, and especially the mounted men, would visit the various estates and farms from time to time to receive and transmit to headquarters any complaints. The owners and occupiers of estates would be requested to keep a book in order to record the visits of the police.

Correspondents to the Natal Mercury complained bitterly about the ineffectiveness of the judicial process. For 'Old Hickory', the reason for the increase in petty thieving was obvious: "It is the immunity from punishment that fosters the trade; a kafir cares nothing whatever about a few months imprisonment: the good living and gentle exercise he gets are almost inducements to get into the tronk. The laws of the colony also are so nicely arranged for the poor dear's benefit, that, if even a magistrate does feel inclined to be severe, he invariably gets orders to commute the sentence." (<sup>164</sup>) In addition, when an African was caught (which, according to the writer, did not even happen once in twenty cases), the owner of the stolen property often preferred to fine the thief or punish him himself, rather than waste two or three days prosecuting only for the 'thief' to receive a soft sentence or no punishment at all. In the experience of 'Old Hickory', it was "simply impossible to keep anything eatable." (<sup>165</sup>)

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<sup>163</sup>. LC, cited in NM, 11 Oct. 1873.

<sup>164</sup>. NM, 21 July 1874.

<sup>165</sup>. Ibid.

Another correspondent to the Natal Mercury claimed that he was robbed daily. <sup>(166)</sup> He alleged that magistrates dared not be too severe on black thieves because those in authority above them, who were on the side of the black man, put pressure on them to be more lenient and humane in their sentencing. The only way to keep your eggs was to sit on them: "There is no receipt in existence for keeping fowls, sweet potatoes, or mealies." <sup>(167)</sup>

Maritzburg did not escape the ravages of thieves and as in Durban, the 1870s saw a significant increase in cases of house-breaking and petty thieving. Although the Police Reports often did not reflect the frequency of these crimes, there were widespread fears that theft was becoming "very rife" in the city. <sup>(168)</sup> The Natal Witness painted a rather gloomy picture: "These outrages [i.e. burglaries] are now becoming of almost nightly occurrence, and the impunity with which the attempts are made demands some special action on the part of the Municipal authorities, otherwise some morning a dead burglar may be found in the streets of the city." <sup>(169)</sup> The Natal Witness warned its readers that "dishonesty is rife in the city. We are constantly hearing of petty thefts from different places in town." <sup>(170)</sup> By 1877 burglaries in both Durban and Maritzburg had virtually become "the order of the night" and it was thought that gangs of daring and clever thieves were at work. <sup>(171)</sup> Although whites lamented the increase in cases of house-breaking and petty thieving, their opinion of African servants remained high and often African criminals were seen more as victims of civilization than as malicious offenders:

Kafirs as they advance in civilization have become much too apt to jump coats and other portable articles upon leaving places. [stores, etc.] On the whole, however, there is little reason to complain of dishonesty on the part of native servants. The temptation they are exposed to, and the few influences they have acting upon them to resist it considered, it is a wonder that they are so well conducted. Were their thieving propensities strongly developed, the present police force would be totally inadequate to protect the city. As it is, however, life and property are as safe in Maritzburg as in any city in the world." <sup>(172)</sup>

In 1878 Superintendent Alexander reported that nearly all the thefts committed in the Borough of Durban were traced to Africans of the adjoining counties being allowed to

<sup>166</sup>. Ibid.

<sup>167</sup>. Ibid.

<sup>168</sup>. NW, 12 Dec. 1873..

<sup>169</sup>. NW, 19 May 1874.

<sup>170</sup>. NW, 24 July 1874.

<sup>171</sup>. NW, 13 March 1877.

<sup>172</sup>. NW, 14 Dec. 1877.

shelter with domestic servants who lived and worked in the borough. He considered that, for the protection of property, it was necessary to enforce the trespass law rigidly and that anyone found trespassing upon any premises without the authority of the owner should be brought before the magistrate. He praised the sergeants for willingly giving up their free time to hunt up thieves and claimed that less than 6% of suspected thieves had managed to escape detection during the past two years. <sup>(173)</sup> It is doubtful whether the burgesses of Durban would have substantiated these rather generous claims on the part of Alexander.

Although the majority of these thieves were Africans, white men were also involved in this class of criminal activity. William C. Thompson, for example, charged with stealing a saddle, and who admitted a previous conviction, was sentenced to three years' imprisonment with hard labour. <sup>(174)</sup> Patrick Harrington, who pleaded guilty to a charge of theft, received the same sentence. <sup>(175)</sup> George Gill, an old offender, was found guilty of house-breaking and theft in Maritzburg, and was sentenced to five years' with hard labour. <sup>(176)</sup> An African called Batyesa, who admitted previous convictions, was sent to gaol for four years with hard labour for theft or receiving stolen goods knowing them to have been stolen. <sup>(177)</sup> Billy, charged with store-breaking with intent to steal, was sentenced to a years' imprisonment. <sup>(178)</sup> Unsingsesi was charged with unlawfully entering a dwelling and stealing certain articles; he was imprisoned for two years with hard labour. <sup>(179)</sup> Another African by the name of Umxotshwa pleaded guilty to having stolen a quantity of onions from Henry Steel at the Umbilo. This was his third offence; on previous occasions he had been imprisoned and whipped. He was sentenced to five years' hard labour. <sup>(180)</sup> The above sentencing indicates that during the 1870s black and white thieves were treated equally by the courts and there was no attempt to punish Africans any more harshly than their white brethren. This situation was somewhat different to that in the late 1860s when the courts did their utmost to impress upon Africans, by means of severe penalties, that to enter the house of a white man and attempt to remove his property, or to molest his wife and daughters, was one of the most dastardly deeds.

Cattle-stabbing and sheep-stealing were crimes which troubled residents of the colony throughout the 1870s. These offences, which first became problematic in the

<sup>173</sup> . MM, Dbn, 1878.

<sup>174</sup> . NM, 22 Oct. 1870.

<sup>175</sup> . NM, 25 August 1874.

<sup>176</sup> . NM, 30 March 1875.

<sup>177</sup> . NM, 25 August 1874.

<sup>178</sup> . Ibid.

<sup>179</sup> . NM, 17 Feb. 1876.

<sup>180</sup> . NM, 19 Dec. 1878.

early 1860s, remained easy to commit and difficult to detect. Both farmers and administrators believed that more effective judicial action could serve to bring these crimes under control. Cattle-stabbing had been "effectively stamped out" at the Umzinto by the "energetic measures" adopted by the Resident Magistrate of that district. <sup>(181)</sup>

But many magistrates were severely criticized by farmers for failing to impress upon Africans the seriousness of the crimes. The police force, as usual, also came under attack for failing to apprehend "Kafirs who perpetrate such dastardly outrages." <sup>(182)</sup> By late 1874 cattle-stabbing was "raging" at the Umbilo, eight animals having been stabbed in the past month. <sup>(183)</sup> The illicit sale of rum to Africans was thought to be a contributing factor; Africans, intoxicated and maddened by the effects of this drink, allegedly felt moved to commit outrages on the cattle of white farmers. By 1876 cattle-stabbing still appeared to be increasing and those in authority seemed to be doing nothing to check this crime. It was hoped that the new measure before the Legislative Council would afford farmers a greater degree of protection. <sup>(184)</sup> The Natal Mercury suggested to employers of labour, and colonists generally, that they needed to be very watchful of whenever meat was brought to the houses of their servants by strangers. They should examine the meat, looking for signs of stabbing, and they should also check for diseased meat. This vigilance, it was hoped, would not only help to detect offenders, but would make it more difficult for cattle-stabbers to sell their meat, and consequently, might serve to retard the perpetuation of this crime. <sup>(185)</sup>

The application of Native Law, and tribal responsibility in particular, appeared to hold the only hope of controlling and extinguishing this crime. The Natal Mercury noted that "as soon as ever justice is made dependent upon European Courts, and European law, its ends are defeated." <sup>(186)</sup> With regard to cattle-stabbing in the coastal districts, it claimed that while the ordinary judicial processes were followed, this offence became increasingly frequent. But as soon as homesteads were made responsible and whole tribes punished for crimes which could be brought home to them collectively, although individual offenders could not be convicted, the crime ceased. <sup>(187)</sup>

<sup>181</sup> . NM, 5 Nov. 1874.

<sup>182</sup> . Ibid.

<sup>183</sup> . NM, 21 Nov. 1874.

<sup>184</sup> . NM, 7 Sept. 1876.

<sup>185</sup> . NM, 9 Sept. 1876.

<sup>186</sup> . NM, 27 Feb. 1873.

<sup>187</sup> . Ibid. Clearly, it did not cease and remained a problem throughout the 1870s.

A resident of Sarnia, near Pinetown, wrote to the Natal Mercury complaining that cattle-stabbing and stealing were rife in his neighbourhood. <sup>(188)</sup> He had heard of 28 such cases occurring between Durban and Maritzburg in the previous six months and, owing to the difficulty of obtaining evidence, not a single conviction had followed that he was aware of. In his opinion, these crimes were encouraged by the apathy which Africans saw displayed every day with respect to lighter offences. He complained that Africans engaged to work for a certain rate of wages, but if it suited them, they left the next day to seek greener pastures. At the time there were warrants out against three of his workers for deserting their jobs. But although their homesteads were within two miles of his house and were well known to the police, they had still not been arrested. Under such circumstances, he considered that Africans "naturally think they can commit any crime with impunity." <sup>(189)</sup> This was a regular complaint among the white colonists throughout the colonial period. They believed that more effective policing and stricter judicial control was necessary in order to impress upon Africans the fact that those who transgressed the laws of the colony would be made to feel the full force of the law.

Sheep and cattle-stealing were widely prevalent throughout the 1870s, causing even more despair and frustration than cattle-stabbing. In 1873 the Natal Mercury reported that sheep-stealing had recently "spread like an epidemic" and was threatening "to extinguish sheep-farming in certain districts." <sup>(190)</sup> During the period 1869-1873 the following numbers of Africans were convicted in the Supreme, Circuit and Combined Courts for stealing, killing and wounding cattle:- <sup>(191)</sup>

1869	38
1870	21
1871	18
1872	26
1873	30

Although there were only 30 convictions in 1873, 94 cases were reported to the police. <sup>(192)</sup>

As with cattle-stabbing, it was hoped that the enforcement of tribal responsibility would serve to bring this crime under control. In Maritzburg a correspondent to the Times of Natal drew attention to the great increase in sheep-stealing and the practical powerlessness of the Resident Magistrates to deal with it and stamp it out.

<sup>188</sup>. NM, 25 July 1876.

<sup>189</sup>. Ibid.

<sup>190</sup>. NM, 27 Feb. 1873.

<sup>191</sup>. NBB, Vol. 1, 1869-1873.

<sup>192</sup>. NBB, Vol. 1, 1873.

(<sup>193</sup>) He claimed that the losses sustained by sheep farmers were so great as to dissuade many prospective farmers from entering into this branch of agriculture. Not only the individual, but the colony as a whole was suffering in such a situation. He claimed further that it was impossible to obtain a conviction against individual Africans, or a homestead or tribe, unless the wrong-doer was caught red-handed in the act. The Colony of Natal, in his opinion, was suffering from the effects of "superfine legislation". (<sup>194</sup>) In Ireland counties in which agrarian outrages took place were mulcted heavily for the support of the relatives of the deceased party, even when the actual perpetrator of the deed was discovered and punished. And in India the village system meant that people were forced to repress and detect crime by fellow individuals or risk punishment from the Government. The writer called on the Natal Government to take corrective action, since "by farming and kindred pursuits, must the colony stand or fall." (<sup>195</sup>)

Farmers in the Karkloof district complained bitterly of their losses of sheep by the depredations of African dogs and the thieving propensities of their masters. (<sup>196</sup>) Farmers were allegedly losing up to 15 sheep in a single night and minor losses were of frequent occurrence. It was claimed that there was no country in the world in which such a large percentage of sheep was lost, stolen or strayed. Farmers complained that, since the Dog Tax Law (No. 16, 1866) had become a dead letter, it would be more beneficial to the sheep-farming community to pass a law to exterminate the dogs belonging to Africans. They called for harsh measures against African sheep stealers: "Steps must be taken, and that promptly, to teach the Kafir thieves a lesson; both as regards depredations by themselves or their dogs." (<sup>197</sup>)

In the neighbourhood of Durban too sheep farmers appeared to endure endless frustration and heart-ache as the numbers of their flocks dwindled on a regular basis. A Mr. C.J. Martens, farming in the Umvoti district, claimed that in the past eight months he had lost an average of ten sheep per month. (<sup>198</sup>) A neighbour, Mr. Hillman, had lost about 60 sheep in the space of six weeks. Martens criticized the police for failing to protect the rights and interests of Natal's sheep farmers; the Mounted Police did not seem to involve themselves with such matters, while the Native Police were simply used as messengers. Although many farmers employed herdsmen to tend their flocks at night, this was having very little beneficial effect. Martens suggested that (and many fellow farmers would have agreed with him), if an

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<sup>193</sup>. cited in NM, 15 May 1877.

<sup>194</sup>. Ibid.

<sup>195</sup>. Ibid.

<sup>196</sup>. NW, 6 July 1875.

<sup>197</sup>. Ibid.

<sup>198</sup>. NW, 5 Oct. 1877.

African was caught in the act of sheep-stealing, gallows should be erected on that farm and the man hanged in the presence of all the members of his homestead. This action, he believed, would deter other members of that tribe from contemplating similar transgressions.

Colonists believed that natural circumstances favoured the escape of African offenders: the sparsity of the white population; the difficulties in the way of identification; the ease with which such crimes could be perpetrated without risk of detection, all tended to encourage acts of theft and outrage. <sup>(199)</sup> In addition, since "good angels in the form of tender-hearted attorneys" were more easily enlisted than in former times, "the quibbles of the law [were] added to the forces and influences which [favoured] the escape of criminals." <sup>(200)</sup> Many colonists were not prepared to spend several days in court, arguing the pros and cons of a case while their farms stood unattended and unproductive. To this extent, therefore, the colonists themselves must be held partly responsible for encouraging these crimes since on many occasions they could not be bothered to bring their complaints to the courts. The general feeling among stock farmers was that "only native law [could] prevent Natal from becoming an abode of anarchy, disorder, insecurity and violence." <sup>(201)</sup>

Sentencing for the crimes of stock-stealing and stabbing was, as in the 1860s, generally strict and aimed at deterring the commitment of such crimes. The sentences handed down, especially in the Combined Court and the Native High Court, reflect the seriousness with which judges and colonists regarded these crimes. Since "the natives [managed] these offences so cleverly, and [were] such adepts at concealment", <sup>(202)</sup> in many cases circumstantial evidence alone was used to prove a defendant guilty. Although the Natal Mercury reassured its readers that "the Court wisely exercises due discretion in estimating the value of [circumstantial] proof", there can be no doubt that many Africans must have been victims of circumstance. But the white readers of the Natal Mercury did not require any reassurance about the merits of circumstantial evidence, desperate as they were for African stock thieves and stabbers to be brought to justice. Whites in Natal, wary of the history of the Cape Colony in which stock thefts had led to several frontier wars, were keen to avoid similar widespread destruction and bloodshed in their own beloved colony. Sentences for horse-stealing were the harshest; for example, Uluduli, who admitted a previous conviction, was sentenced to seven years' imprisonment with hard labour for stealing a bay horse from a fellow African near

<sup>199</sup> . NM, 27 Feb. 1873.

<sup>200</sup> . Ibid.

<sup>201</sup> . Ibid.

<sup>202</sup> . NM, 24 June 1878.

Boston. <sup>(203)</sup> Sentencing, on occasions, appeared to be rather inconsistent; for example, an African was sentenced to nine months' hard labour and 50 lashes for stealing a sheep, <sup>(204)</sup> while another African suffered three years' hard labour, 25 lashes and the confiscation of all his property to the Crown for stealing cattle from a fellow African. <sup>(205)</sup> The courts were more lenient on first time offenders (for example, Makahamas and Silankunzi, charged with the theft of a sheep, received only six months' imprisonment and 20 lashes each, all their property to be converted into cash and placed into the Treasury for the use of the Crown.) <sup>(206)</sup> and also took into account the age of the defendant (for example, Macgeni, an African boy aged twelve, was sentenced to six weeks' hard labour for cattle-stabbing.). <sup>(207)</sup>

In 1876 Natal's white authorities turned to legislation in a desperate attempt to address the serious problem of cattle-stealing and stabbing by Africans. The Acting Secretary for Native Affairs, in moving the second reading of the Native Cattle Stabbing Bill, argued that justice often miscarried due to the constant practice of young boys giving themselves up as the culprits in the knowledge that they would escape with only a few lashes, thus allowing the real culprit to go free. His experience had shown that cattle-stealing and stabbing by Africans was "frequently the forerunner of far greater evils, and often led to serious results." <sup>(208)</sup> Indians had also been included in the Bill since, in his opinion, "these people demand just as much supervision as the kafirs." <sup>(209)</sup>

Law No. 10 of 1876, "To make provision for the detection and punishment of Natives wrongfully and unlawfully killing, stabbing or wounding cattle, and to make provision with regard to the removal of cattle from place to place within the colony," was duly passed by the Legislative Council. <sup>(210)</sup> The following clauses are of particular importance:-

Clause 10: An African charged with stealing or stabbing cattle would have his property (except property required to support those dependent on him) confiscated until he was put on trial.

Clause 11: The penalties for stealing and stabbing cattle remained essentially the same, except that hard labour was included, only a single whipping would be allowed and women were specifically excluded from the punishment of whipping.

<sup>203</sup> . NM, 11 Sept. 1878.

<sup>204</sup> . NM, 6 Jan. 1870.

<sup>205</sup> . NM, 8 Jan. 1876.

<sup>206</sup> . NM, 4 Jan. 1877.

<sup>207</sup> . NM, 8 August 1876.

<sup>208</sup> . LC, 25 Aug. 1876. cited in NM, 29 Aug. 1876.

<sup>209</sup> . Ibid.

<sup>210</sup> . NGG, 19 Dec. 1876. Law No. 4 of 1868 was thereby repealed.

Clause 13: If a person convicted of stealing or stabbing cattle was adjudged to be under the age of fourteen, a fine not exceeding treble the value of the cattle would be imposed on his parents.

Clause 14: The Court established by this law would consist of the Judge of the Native High Court, who could sit as sole judge or with an assistant in terms of Section 7 of Law No. 26 of 1875.

The Law of 1876 was very similar to the one it repealed, i.e. that of 1868.

In July 1877 the subject of sheep and cattle-stealing was again brought before the House. Mr. Sutton moved that a Select Committee be appointed to inquire into and report upon what measures, if any, were needed, beyond those already in existence, to check and suppress the crimes of sheep and cattle-stealing, which allegedly still prevailed "to an alarming extent in certain sections of the colony." <sup>(211)</sup> He argued that the losses suffered by these farmers affected not only the farmer, but every householder in the colony since he was required to pay more for his pound of meat. A farmer who had lost 25 sheep during the previous month said that he had not reported the crime; he refused to ride 30 km. to see a magistrate who either would not or could not help him. Sutton had letters in his possession which indicated that this crime was greatly on the increase: "For the last two years it had been carried on to a very great extent, and it was still a most serious matter." <sup>(212)</sup> One farmer had written to him stating that he had lost 150 sheep, while another claimed that he had lost 100 sheep per annum for the past seven years. Complaints were made that the law was not enforced and the Mounted Police were seldom seen in the country districts. African detectives who were sent out to investigate thefts were often recognised by the local population, thus negating their chances of finding the culprits. Farmers were often told to find the offender themselves, but they refused to be both farmers and policemen. The motion to set up a Select Committee was carried.

In August 1877 Mr. Sutton moved the following resolutions in the Legislative Council:-

- 1) That, in the opinion of this House, for the better suppression of the crimes of sheep and cattle-stealing, a limited number of secret native or European detectives should be employed.
- 2) That frequent patrolling, by the Mounted Police, of the roads and footpaths where these crimes are committed, could not fail to have a beneficial and deterrent effect, even though they might not make any arrests.

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<sup>211</sup>. LC, 6 July 1877. cited in NM, 10 July 1877.

<sup>212</sup>. Ibid.

3) That the Lieutenant-Governor, as supreme chief, be requested to take into consideration the advisability of putting into force the principle of tribal and collective responsibility, especially in the districts where these crimes were committed, in accordance with Native Law and with the principles laid down in Laws No. 26, 1875, and No. 10, 1876.

A motion to forward these resolutions, together with the report (No. 7, 1877) on sheep-stealing, to the Lieutenant-Governor was passed. <sup>(213)</sup>

The Select Committee on Sheep and Cattle-Stealing sent a circular to a number of farmers residing in the Counties of Weenen and Umvoti, and in the districts of Richmond, Ixopo and Karkloof in Maritzburg County in order to ascertain the nature and extent of these crimes. <sup>(214)</sup> The Committee reported that the situation was as follows:-

1) Few thefts were reported of either horses or cattle, though in one or two localities horse-stealing was said to be on the increase.

2) Losses sustained by sheep farmers from thefts were not only heavy, but were increasing (especially within the past six months) and in some districts to "such an alarming extent" that the Committee considered that unless measures were adopted to check "the evil", the industry might soon have to be abandoned.

<sup>(215)</sup>

3) The Committee believed that this increase was caused by the impunity with which the crime could be committed. The chances of detection were very slight and convictions were very rare in proportion to the number of offences committed. In the year ending 30 June 1877 there were only 28 convictions for cattle-stealing, while only 11 cases of sheep-stealing (including three acquittals) were brought to trial.

The following table reflects losses sustained by individual farmers between 1 January 1876 and 30 June 1877. For example, in the Karkloof district seven farmers lost a total of 838 sheep. It is not a complete return of the total losses sustained.

<sup>(216)</sup>

<u>District</u>	<u>Horses</u>	<u>Cattle</u>	<u>Sheep</u>	<u>Goats</u>
Karkloof District, Maritzburg County	\$150 worth in three years.	-	62 12 225 120	11
		225 124 60		

<sup>213</sup>. LC, 31 July 1877. cited in NM, 7 August 1877.

<sup>214</sup>. NGG, 31 July 1877.

<sup>215</sup>. Ibid.

<sup>216</sup>. Ibid.

		(838)		
Richmond & Ixopo	one mare & a foal	2	50	-
		60	40	
		40		
		112		
		99		
		(401)		
Weenen	--	26	-	
		30		
		95		
		95		
		(246)		
Umvoti	2	-	68	28
		114		
		196		
		35		
		16		
		110		
		87		
		102		
		77		
		27		
		(832)		

One farmer from the Karkloof District, Mr. Otto, reported that he had lost (i.e. through theft) 411 sheep since 1870:- <sup>(217)</sup>

1870-1	50
1871-2	43
1872-3	57
1873-4	42
1874-5	95
1875-7	124

(411)

4) The Committee tried to ascertain whether these losses were the result of carelessness on the part of the farmers in not counting and looking after their sheep. Some owners claimed to count their sheep every day or two, others once a week or monthly. All, however, said that they employed herd-boys to look after their sheep. The Committee could not find that those who counted often, and who were known to be careful men, lost less than those who counted seldom. On the contrary, those who counted more often appeared to lose the most, showing "most conclusively that these losses are not the result of carelessness." <sup>(218)</sup>

<sup>217</sup>. Ibid.

<sup>218</sup>. Ibid.

5) The Committee found that sheep were rarely kraaled at night, the reason given being that deaths from disease would be largely increased, with no corresponding advantage from the diminution of theft. One witness said that he lost more when the sheep were kraaled, because they were handier for the thieves to take.

6) The Committee found that there were two classes of theft reported, one in which sheep were taken in twos and threes from time to time, and the other in which they were taken in large lots of 20 to 30 at once, and no more taken for some time. In the first case evidence was found that the sheep were consumed in the neighbourhood by Africans residing on the farms, skins and bones having been found. In such situations, however, it was difficult to attach the crime to any particular individuals. In the second class of thefts, no clue or trace was ever found, the sheep disappearing absolutely forever. The Committee believed that they were removed to a distance and strongly suspected Indians of being either the recipients or the thieves. In the case of those stolen from the Umvoti County and the Karkloof district, it was believed that they were driven via the Noodsberg to the coast; Indians had been met driving woolled sheep and goats in that direction, and woolled sheep had been offered in Victoria County at 12s. per head when the price in the upper districts ranged from 18s. to 22s..

7) Farmers were almost unanimous in stating that the existing system of African detectives or policemen from the Magistrate's Office was useless. Some of the witnesses said that they had long ceased to complain to the Resident Magistrate since experience had taught them that it was usually a fruitless exercise. In some cases their complaints were ignored. From the rarity of detections, the Committee concluded that the Resident Magistrate did not have sufficient means at his command to bring offenders to justice.

8) The Committee considered that in thefts of this kind certain and speedy detection was far more important than severe punishments. If the constituted authorities neglected or were unable to detect and punish criminals, the results would be disastrous for Natal: the victims would either abandon their occupations, in which case the colony would suffer from the loss of a profitable industry, or they would take the law into their own hands, causing conflict between the two races.

In the light of the foregoing evidence, the Committee made recommendations which they considered would be useful in confronting the problem:-

1) Secret African or white detectives should be employed to investigate cases of alleged theft and then to report back to their official head. The head of this organization should be able to speak the Zulu language. Such detectives would not be allowed to appear in court, or be seen at the Magistrate's Office, since their usefulness would be immediately destroyed. They considered that such a force

would not be difficult to organize and could be worked in connection with the Mounted Police Force at little additional expense.

2) The Committee was of the opinion that the Mounted Police should be instructed to patrol the districts where these crimes were committed, especially at night and in the early morning, and at irregular intervals. Such patrols should not be confined to the main roads, but should go through secluded parts of the country where there were few white inhabitants and where the facilities for secreting stolen stock were very great. Mr. Taynton of the Karkloof had volunteered a house for the use of such patrols.

3) The Committee believed that it would be beneficial to offer rewards for the discovery of offenders. In all the cases reported to the Committee no doubt was expressed that all the Africans in the neighbourhood where the theft was committed knew who the thieves were, but refused to furnish any evidence to the authorities whereby the guilty could be brought to trial and punished.

4) The Committee drew attention to Clause 15 of Law No. 26 of 1875 which stated that when it could be shown that a "combination exists to suppress evidence, to conceal the perpetrators of such crimes, and by passive resistance to constitutional authority, to encourage the repetition of such crimes," the Lieutenant-Governor was authorised "to impose upon such tribe or community a fine not exceeding Five Pounds per head of the male adult population for each offence." <sup>(219)</sup> Clauses 6 and 7 of Law No. 10 of 1876 conferred similar powers to the first-mentioned Law. In the light of these Laws, the Committee recommended that the principle of tribal or collective responsibility should be put into force, not necessarily to include a whole tribe, but that "a community of kraals" should be made responsible as the law directed. <sup>(220)</sup> Tribal responsibility had produced excellent results in Natal in the past and was used to good effect in places such as Ireland and India. One gentleman had reported that since this principle was enforced in his case some years previously, he had lost no sheep whatsoever by theft, though previous to that time his losses had been very heavy. Another farmer stated that two years previously he had lost 200 sheep in six months, but since he had notified the Africans residing on his farm that they would be held responsible in future, none had been stolen.

5) The Committee believed that it would rarely be necessary to enforce the penalty provided in the law, as the offences would either cease, or information would be furnished. It would not be necessary to place a large area or a large number of Africans under the operation of this law at one time; in the Karkloof district for example, the chief losses were sustained by five or six farmers living within a radius of three or four miles.

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<sup>219</sup>. Ibid.

<sup>220</sup>. Ibid.

6) The Committee recommended that Indians, Bastards, Hottentots and Griquas should not be permitted to drive cattle, horses, sheep or goats without a pass, and that a law embodying the provision of Clauses 3 and 5 of Law No. 10 of 1876 should be passed, including these people.

While it is true that the overwhelming majority of cattle and sheep crimes was perpetrated by Natal's African population, a small number of white people was also involved. For example, the R.M. for the Newcastle Division reported that a number of whites was involved in the "systematic and wholesale" stealing of cattle in a "most open and shameful manner".<sup>(221)</sup>

The extent of property crimes committed in Natal during the 1870s must be considered in conjunction with the prevailing state of the economy. The following table reflects the number of thefts committed by whites, Indians and Africans in the Borough of Durban for the period 1870-1879:-<sup>(222)</sup>

	<u>Whites</u>	<u>Indians</u>	<u>Africans</u>	<u>Total</u>
1870	17	35	76	128
1871	16	54	92	162
1872	35	39	119	193
1874	32	75	157	264
1875	34	43	146	223
1876	16	29	124	169
1877	9	24	69	102
1878	16	16	51	83 (h/b & t)
1879	41	60	142	243

<sup>(223)</sup>

Between 1870 and 1874, a period of economic prosperity, the number of convictions for theft more than doubled. This is surprising since property offences usually decrease during periods of relative economic stability. During these years, however, the borough's population had increased significantly:-<sup>(224)</sup>

	<u>1870</u>	<u>1874</u>
Whites	3 147	4 129
Indians	656	1 860
Africans	1 777	2 252
	(5 580)	(8 241)

<sup>221</sup>. NBB, Vol. 1, 1879.

<sup>222</sup>. MM, Dbn, 1870-9.

<sup>223</sup>. h/b & t means house-breaking and theft.

<sup>224</sup>. MM, Dbn, 1870, 1874.

The 48% population increase during the years reflected above meant that the number of potential offenders was correspondingly higher. At the same time, as society in Natal advanced down the path of civilization, and gradually took on a more materialistic orientation, so the opportunities for theft and the attractiveness of the product must have increased. The prosperous state of Natal's economy attracted people of all races to Durban, each desiring to secure for himself a slice of the wealth on offer. The overwhelming majority of thefts during this period was committed by the borough's black population, principally Africans. This scenario served to increase the suspicion and hostility with which whites perceived their black neighbours. Many local Africans, free from the shackles and the discipline of tribal authority, and viewing with envy the material delights of society's more privileged class (and perhaps realising that their own position in that society was almost pre-determined to be at the bottom), engaged in criminal activity with a view to acquiring property which was not their own.

From 1875, however, the number of thefts committed in the Borough of Durban decreased markedly for four consecutive years, before rising sharply once again during the year of the Anglo-Zulu War (1879). The moderate recession of 1876 and the moderate depression of 1876-7 did not appear to encourage property thieves to flex their muscles; on the contrary, the 69% decrease in thefts committed in Durban between 1874 and 1878 suggests that many thieves had decided to abandon the life of crime. Increasing police vigilance might have contributed to the decrease in convictions for theft. This decrease in the incidence of theft is even more surprising when one considers that the population of the borough had continued to grow steadily:- <sup>(225)</sup>

	<u>1875</u>	<u>1877</u>	<u>1879</u>
Whites	4 564	5 312	7 188
Indians	698	1 999	2 973
Africans	2 286	3 177	3 057
	(7 548)	(10 488)	(13 218)

In 1879, however, all the thieving propensities of Durban's population appeared to resurrect themselves once again. The number of convictions for theft in that year was three times greater than in the previous year, despite the new prosperity which had returned to the economy of Natal. <sup>(226)</sup> The Anglo-Zulu War had thrown society into a turmoil and dishonest people of all races saw the opportunity to take advantage of this uncertainty.

<sup>225</sup>. MM, Dbn, 1875, 1877, 1879.

<sup>226</sup>. By 1879 theft was the second most serious crime in Durban, behind vagrancy.

It is also necessary to consider how the state of the economy may have influenced crimes committed against cattle and property crimes generally throughout Natal. The following table reflects the number of cases of cattle-stealing, killing or wounding brought before the Superior Courts for the period 1869-1879:-<sup>(227)</sup>

	<u>Convicted</u>	<u>Acquitted</u>	<u>Not Prosecuted</u>	<u>Total</u>
1869	38			
1870	21			
1871	18			
1872	26			
1873	30	8	3	41
1874	59	2	4	65
1875	31	5	2	38
1876	28	9	12	49
1877	46	10	25	81
1878	114	19	27	160
1879	60	28	18	106

Once again, there is not always a direct correlation between economic hard times and an increasing incidence of cattle offences. Between 1869 and 1871, as the economy moved from a period of depression to prosperity, convictions for cattle crimes reflected this positive movement in the economy by decreasing by over 50%. Between 1871 and 1874, however, as the economy continued to prosper, convictions for cattle crimes actually increased more than three-fold. During 1875, however, there was a significant decrease in cattle crimes, which is consistent with the prevailing state of prosperity. The Attorney-General attributed the reduced number of convictions to the increased prosperity of the African inhabitants. Considering the scattered nature of the white population, he believed that the comparatively small amount of agrarian crime was cause for satisfaction. In his opinion, "an immunity from agrarian Crime is an indication of the well-being and contentment of the people."<sup>(228)</sup> Between 1875 and 1878, as the economy moved from prosperity through a moderate recession and depression towards revival, crimes against cattle increased fourfold. This latter trend is fairly predictable, but one would have expected these crimes to have begun decreasing during 1878 as the economy returned to a new period of growth and prosperity. Unlike thefts in Durban which increased threefold during 1879, cattle crimes decreased significantly during the year of the Anglo-Zulu War. The overwhelming majority of crimes against cattle was committed by the colony's African population.

<sup>227</sup>. NBB, Vol. 1, 1869-1879.

<sup>228</sup>. NBB, Vol. 1, 1875.

The following table reflects the number of convictions for crimes against property for the Colony of Natal for the period 1870-1879:- <sup>(229)</sup>

	<u>Total Property Offences Reported to Magistrates</u>	<u>Summary Convictions</u>	<u>Convictions in Superior Courts</u>	<u>Total Convictions</u>
1870	-	335	55	390
1871	-	310	28	338
1872	505	374	45	419
1873	665	232	64	296
1874	698	397	90	487
1875	733	446	71	517
1876	640	346	63	409
1877	718	475	88	563
1878	886	554	167	721
1879	1 303	719	88	807

It is impossible to establish any direct correlation between the state of the economy and the incidence of property crimes. The general trend throughout the decade is an upward one, and during 1878/9, which were years of economic prosperity, crimes against property actually climbed to their highest levels ever in the history of the colony up to that time. Clearly, Natal was advancing down the path of civilization. Not only was society becoming more advanced and taking on an increasingly materialistic character, but that society was also beginning to reap some of the more dubious rewards of civilization, such as crime and social problems. The most logical explanation for this steady increase in property crimes is the significant increase in the borough's population between 1871 and 1879. In a developing society, the presence of more people generally means more crime:- <sup>(230)</sup>

	<u>1871</u>	<u>1879</u>
Whites	3 324	7 188
Indians	656	2 973
Africans	1 777	3 057
	(5 757)	(13 218)

The new decade (1880-1889) opened with some sound advice from the Natal Mercury: "Natal has, alas, outgrown that primitive period of colonial existence when bolts and bars are uncalled for, and thieves neither break through nor steal. If people have property which is worth stealing they must be prepared to take care of it." <sup>(231)</sup> But before the nature and extent of property crimes committed in Natal

<sup>229</sup>. NBB, Vol. 1, 1870-1879.

<sup>230</sup>. MM, Dbn, 1871, 1879.

<sup>231</sup>. NM, 5 June 1880.

during the 1880s is examined, it is illuminating to survey, briefly, the economic climate prevailing in the colony during this period. The economic boom which began in 1878 continued into the early 1880s. The Collector of Customs described the year 1880 as having "shown the highest point yet attained in the commercial progress of the Colony in relation to imports, exports and customs revenue." <sup>(232)</sup> After the Zulu War, Africans showed an even greater reluctance to labour for the white man. During the war Africans had accumulated wealth through the high wages on offer (40/- to 60/- per month), the hiring out of wagons and the sale of oxen and cattle. The Resident Magistrate of Ixopo observed that "nearly all natives have ploughs and a thriving stock of cattle and are longing to purchase land." <sup>(233)</sup> The presence of Imperial troops in Natal in 1879 and the outbreak of war between the Transvaal and Britain in 1881 had provided Natal's farming community with an excellent market for their produce at increased prices and had served as an inducement to them to increase their cultivation and production. <sup>(234)</sup>

As the African population increased in size, so did their demand for land. By the early 1880s Africans were for the first time beginning to experience difficulties because of the higher premium placed on the categories of land available to African peasant farmers. African tenants on private farms were obliged to pay an average annual rent of £2 per hut, an exorbitant amount which gave rise to bitter complaints. African reserves were beginning to stagnate economically because of overcrowded conditions. In 1882 these reserves contained 33 913 huts occupying 2 050 880 acres which provided an average of about 51 1/2 acres per hut at approximately 13 acres to each person occupying the hut. <sup>(235)</sup> In order to solve the problem of overcrowding in reserves, many Africans had become tenants on white-owned farms. There were two types of tenancy in operation at this time. Africans could either choose to pay cash rents to landowners and were therefore not obliged to work for their landlords, or they could occupy the land rent-free, but would be forced to supply their labour at a lower rate than the average. Most Africans opted for exceedingly high rents, rather than supply their labour to white farmers or to the government public works because they valued their independence and self-sufficiency as independent producers and entrepreneurs. Africans who had accumulated sufficient capital were able to purchase Crown lands from 1880 onwards.

<sup>232</sup>. NBB, Vol. 1, 1884, Report of Collector of Customs.

<sup>233</sup>. NBB, Vol. 1, 1879, Report of Resident Magistrate of Ixopo.

<sup>234</sup>. N. Ramdhani, *op. cit.*, p. 96.

<sup>235</sup>. Report and Evidence of Natal Native Commission, 1881-1882, p. 35.

During 1881, however, the diamond crisis precipitated a downturn in the economy and this was followed by a severe depression during the period 1882-6, which resulted in a rapid fall in revenue and a series of deficits. The import trade also suffered a considerable decrease. The situation was aggravated by adverse weather, notably by droughts and the lateness of spring rains. Thus farmers endured a double blow, experiencing both unsatisfactory harvests and depressed prices for agricultural products. Evidence of African prosperity began to recede during these years of depression and adverse weather. The reports of Resident Magistrates made constant references to the evidence of "poor crops", "hardness of times" and "scarcity of money". In 1882 half the crops cultivated were surplus and thus available for sale, whereas in 1885 only one-third were available for sale. <sup>(236)</sup> The growing inability of Africans to grow sufficient food to satisfy their own subsistence needs forced them to rely on their white neighbours. The depressed condition of trade in Natal in 1885 and the cessation of the railway works in Weenen reduced the price of labour to between 7/- and 14/-. <sup>(237)</sup> Besides having to sell their crops and even their cattle at low prices, the only other practicable method of procuring money to pay rents and taxes, was to sell their labour to white farmers. The reports of Resident Magistrates indicate that from about 1883 onwards, an increasing number of Africans began to enter wage labour, primarily on white-owned farms. Those Africans who had purchased Crown lands began to experience difficulties in paying their instalments; by 1884 the total sum in arrears on land purchases amounted to £9 000. <sup>(238)</sup> It became increasingly more difficult for Africans to pay the various rents and debts attached to the different types of land available. While rents had averaged about 5/- per year in 1860, by 1886 the rents charged by the Natal Land and Colonisation Company averaged about 28/- per year. <sup>(239)</sup> As certain parts of Crown lands were sold off, African tenants were ordered to vacate these lands. It was often impossible for them to return to the reserves which were becoming overcrowded. As early as 1882 the Natal Native Commission recognised that "the lands set aside for these locations are for the most part exceedingly rugged, broken and very difficult to traverse on horseback." <sup>(240)</sup> The huge Inanda location, for example, had no roads, thus presenting a serious problem

<sup>236</sup> NBB, Vol. 1, 1882, Vol. 2, 1885, Reports of Resident Magistrates.

<sup>237</sup> NBB, Vol. 2, 1885, Report of Resident Magistrate of Weenen.

<sup>238</sup> C.J. Bundy, The Rise and Fall of the South African Peasantry, p. 182.

<sup>239</sup> Ibid.

<sup>240</sup> Natal Native Commission, p. 35.

for Africans who had to convey their produce to markets which lay outside the reserves. <sup>(241)</sup>

During this period of depression, the ability of the African population to pay the annual Hut Tax of 14/- was adversely affected. Although Africans appeared to pay their taxes with difficulty, they nevertheless did not shirk their tax obligations. No obvious resentment was forthcoming. <sup>(242)</sup>

In 1884 the Legislative Council passed Law No. 41, which may be seen as yet another device designed by the Natal colonial authorities to raise revenue and at the same time to draw Africans deeper into the white money economy. In terms of this law, a Squatters' Tax of £1 per hut was imposed on all Africans living on Crown lands. The payment of £1 affected about 6 000 Africans and was considered to be a rent for the use of Crown lands. The independence of African farmers was no longer guaranteed and came under increasing threat throughout the remainder of the colonial period. Towards the end of 1886 the economy began to revive and between 1887 and 1889 prosperity returned for the first time since 1881.

A report in the Natal Witness indicated that the residents of both Durban and Maritzburg would have to guard their property very carefully in future. The situation had degenerated to the point where property offences were becoming alarmingly common: "The increase of offences against property is very noticeable, not only here [Maritzburg], but throughout the whole of the colony. The Durban burglaries still remain a mystery to the police, the up-country horse and cattle thieves are as yet undetected, whilst in this City nightly robberies occur, chiefly from dwelling houses, hotels, and wagons." <sup>(243)</sup> Within the past seven days 20 such property offences had been reported, the crimes being committed "in every case with impunity". <sup>(244)</sup> In one instance, a man's belt and purse were stolen from beside his head as he slept under his wagon. The theft of poultry was rampant; no fowl appeared to be safe for a single minute and although locked up in houses, they were often found to have been extracted in a "most masterly manner". <sup>(245)</sup> The Natal Witness warned that if these crimes continued, citizens would have to take the duties of the Police Committee into their own hands: "A few unpaid specials, a volunteer detective department, and a little of that application to practical detail, that characterizes summary forms of

<sup>241</sup>. D. Welsh, op. cit., pp. 188-189.

<sup>242</sup>. N. Ramdhani, op. cit., p. 111.

<sup>243</sup>. NW, 16 March 1880.

<sup>244</sup>. Ibid.

<sup>245</sup>. NW, 9 Nov. 1880.

justice, would soon rid us of the pests of society that red-tape, legal formalities, and 'our four men in buckram' fail to suppress." <sup>(246)</sup>

The Natal Witness drew the attention of its readers to "The Criminal Epidemic" in Maritzburg, reporting that not a day passed without some information reaching its offices of a burglary, larceny or robbery from the person. <sup>(247)</sup> The police often professed ignorance of these cases and appeared to be "utterly powerless to cope with the growing evil." <sup>(248)</sup> The situation was deteriorating rapidly and causing great consternation among the city's white residents:

Night after night attempts are made to enter houses; windows are smashed, doors broken away from the lintels, goods are abstracted, and the thieves disappear without having been in the least degree harassed by the attention of the constables, whose duty it is to keep watch at night. Matters are becoming very serious; property is not safe; it is even becoming a custom with the citizens to sleep with loaded revolvers or rifles in close proximity to their beds. <sup>(249)</sup>

The Superintendent of Police for Durban, Richard Alexander, found that Africans were equally as cunning as whites and Indians when it came to thieving and he believed that they had better opportunities to dispose of clothing without detection than any other race in the Durban community. <sup>(250)</sup> In 1881 Alexander reported that thieving by Africans was increasing to an alarming extent. He estimated that 15 out of every 20 thieves escaped punishment through their proper names, tribe and homestead being unknown to employers and the police. It appeared that potential African thieves were aware of the hopeless position of the police and almost arrogantly lived, worked and often stole under the very walls of the prison. He castigated "the authorities" (presumably the Durban Corporation or the Natal Government) for encouraging African thieves by prohibiting the registration of Africans and called on them to supply some other means of keeping Africans in the borough out of mischief. Because of the absence of Government Constables or a Government Detective Force, the Borough Police were forced to neglect their legitimate work and bear the expense and trouble of trying to save the property of burgesses by ridding the borough of all offenders. In his estimation, this was "no easy task" for such a small force as that which he had at his disposal. <sup>(251)</sup>

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<sup>246</sup> . Ibid.

<sup>247</sup> . NW, 30 March 1880.

<sup>248</sup> . Ibid.

<sup>249</sup> . Ibid.

<sup>250</sup> . MM, Dbn, 1880.

<sup>251</sup> . MM, Dbn, 1881.

Alexander reported that thefts were becoming more and more frequent, and that employers took little or no precaution with their African servants to prevent them from thieving, being probably unaware that they were employing as domestic servants at least 150 convicted thieves in Durban alone. <sup>(252)</sup> He stated further that 130 of these had been tried, convicted of theft, undergone their sentence and been released during the past year; that 249 convicted thieves, in addition to those from other areas such as Maritzburg, had been released from the gaol at Durban during the past twelve months; that 124 Africans convicted of theft during the past twelve months had only been sentenced to an average of six weeks' imprisonment. In addition, there was the problem of the Amatonga Africans in Durban, who numbered about a thousand, and who were allegedly "without chiefs, kraal, property or anything to keep them honest." <sup>(253)</sup> These men apparently assumed as many different names as they had masters and were liable to leave the colony at any time either by land or sea without asking permission. The Superintendent called on the Durban Corporation to bring this state of affairs to the attention of the Government.

NP { Cases of house-breaking and theft were common in the early 1880s and were usually met by strict sentencing intended to deter prospective thieves in the future. } Sentences in the 1880s appeared to be harsher than in the earlier colonial period. Sir Henry Connor, for example, Chief Justice, presiding before the Durban Circuit Court, handed down the following penalties: Two Africans, Jadoi and Maguidion, convicted of the theft of brandy from Mr. Shuter, were each sentenced to three years' imprisonment with hard labour; an African convicted of stealing £20 from Mr. Manning was sent to gaol for three years; an Indian by the name of Dowluth, for the theft of various articles from a fellow Indian, was sentenced to three years' with hard labour; Manoman, an Indian boy, was sentenced to two years' with hard labour for stealing jewellery from the house of Mr. Brooks on the Berea; an African called Ubanga, for robbery and assault near the Tongaat, was imprisoned for five years with hard labour. <sup>(254)</sup> White thieves appeared to be relatively scarce in this period and tended to escape the rather harsh penalties imposed on their black brethren: for example, two white men, charged with being in possession of goods (a carpet bag containing clothes and £8) knowing them to be stolen, were sentenced to three months' and six weeks' hard labour each; <sup>(255)</sup> Arthur Young and Wilhelm Steiners were each sentenced to a years' hard labour for stealing timber from Mr. Drew, the verdict and sentence appearing to create considerable astonishment and being freely discussed afterwards by those present. <sup>(256)</sup>

<sup>252</sup> . NM, 7 April 1881.

<sup>253</sup> . Ibid.

<sup>254</sup> . NM, 19 August 1880.

<sup>255</sup> . NM, 25 August 1880.

<sup>256</sup> . NM, 20 Dec. 1880.

The severe sentencing of black thieves was well supported by the colony's white population. When Ulubidhli was sentenced to five years' penal servitude and 78 lashes (39 on entering prison and 39 on leaving) for entering the dwelling house of Mr. Pay on the Berea with unlawful intent, the Natal Mercury remarked that "Judge Cadiz exercised a wise and just severity in the sentence he passed upon the young native burglar." <sup>(257)</sup> Severe sentencing was considered to be the only "way to put down a class of crime which is apt to become epidemic unless rigorously stamped out." <sup>(258)</sup> Most white Natalians subscribed to the view of the Natal Mercury that "life would become intolerable in a land like this were any encouragement afforded by defect of law or laxity of justice to scoundrels of Ulubidhli's type. The lash is the only deterrent in such cases, and the double application of it will send the culprit out into the world again a sadder and, let us hope, a better man." <sup>(259)</sup>

In 1883 the Natal Mercury again warned white householders to "be careful to secure their premises before retiring to rest" since there were "numerous gangs of thieving kafirs now in the Borough." <sup>(260)</sup> The illegal entry of three houses at Stamford Hill, almost within sight of the police station, appeared to underline the ineffectiveness of the police force. The Natal Mercury reported that "there seems to be quite an epidemic amongst the evil disposed of the town impelling them to commit the crime of housebreaking." <sup>(261)</sup> The police considered that many of these thefts were being committed by so-called "togt kafirs" who often slept in kitchens attached to private houses. <sup>(262)</sup> In Maritzburg too cases of house and store-breaking and petty thefts were perpetuated throughout the 1880s, the majority of criminals being members of the African population.

Although the incidence of theft in the Borough of Durban increased by 19 cases in 1885, there were, in Alexander's words, "fewer cases of house-breaking than in any previous year in my recollection, and much less than in any other town in South Africa." <sup>(263)</sup> He attributed this healthy state of affairs to the excellent conduct of the police under his charge, and the advantages derived under the Vagrant Law by permitting the arrest of all Indians and Africans found out after 9 p.m. without a pass or trespassing on enclosures without the authority of the owners or occupiers.

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<sup>257</sup> . NM, 22 Dec. 1882.

<sup>258</sup> . Ibid.

<sup>259</sup> . Ibid.

<sup>260</sup> . NM, 30 April 1883.

<sup>261</sup> . NM, 3 Jan. 1883.

<sup>262</sup> . These kitchens were only supposed to house the permanent domestic servants attached to that particular household.

<sup>263</sup> . MM, Dbn., 1885.

In Alexander's opinion, the true cause of many of the thefts committed by Africans could be attributed to the fact that domestic servants did not have to register. In addition, when they left the service of their white employers, they frequently did not obtain a proper character reference, meaning that a released convict, by offering his services at lower wages, could displace honest men. <sup>(264)</sup> The average number of convicted African thieves released from the Durban goal was 130 per annum. These men and women were virtually free to take up employment where they chose because many white employers did not ask the prospective African employee for a reference from a previous employer. The security of the early colonial period had gone forever and by the end of the decade petty thieving by 'umfaans' (African boys) was reported to be greatly on the increase. <sup>(265)</sup>

The question of stock-stealing continued to be problematic for Natal's white farmers during the 1880s, but cattle-stabbing appeared to occur rather less frequently than in previous decades. The reports of the various Resident Magistrates confirmed that crimes against cattle and sheep were widely prevalent and on the increase. At least two of these magistrates believed that whites were responsible for these crimes, though most agreed that the problem remained essentially one of African criminals. The R.M. for Klip River stated that sheep-stealing, a crime which greatly interfered with the prosperity of the upper districts, was on the increase. Sheep farmers had assured him that their losses amounted to between forty and sixty sheep in one night, and that although rigorous and immediate search had been made, no trace of either the missing property or the perpetrators, alleged to be Africans, had been found. He reported that the facilities offered for the commission of this crime were very great, since the sheep were not penned at night, and, in the absence of a better mode of distinguishing these animals, they were merely marked on the wool with either tar or paint, a mark easily removed in many ways. He believed that unprincipled whites were in a great measure responsible for the losses complained of. <sup>(266)</sup> The R.M. for Newcastle reported that the theft of cattle had been carried on "to a large extent and in a most systematic way" by whites who in many cases had used Africans as "tools" to effect their object. <sup>(267)</sup> For this reason it was "most difficult" to detect crimes of this sort and to obtain a conviction. In his opinion, the Africans had been "learning all this" and were "not slow" to follow the example set by the whiteman. <sup>(268)</sup> He drew attention to a case in which an African, charged before

<sup>264</sup>. MM, Dbn., 1887.

<sup>265</sup>. Report of Superintendent of Police to Durban Corporation. NM, 8 Nov. 1889.

<sup>266</sup>. NBB, Vol. 1, 1881.

<sup>267</sup>. Ibid.

<sup>268</sup>. Ibid.

the Native High Court with cattle-stealing, had got off through the non-appearance of witnesses who resided beyond the borders of Natal, and a week later had allegedly stolen three head of cattle to pay his attorney. The R.M. for Weenen County reported that cattle-stealing by Africans, especially that of horses, sheep and goats, existed to a "considerable extent" and could not be effectively checked with the existing "imperfect and inadequate" police arrangements. He suggested that the "only thoroughly effective means" of stamping out the thefts of sheep and goats by Africans was to establish a system of local responsibility as a substitute for the old African system of tribal responsibility. The latter could not be justly applied to Africans resident on private farms, and amongst tribes so mixed up as the tribes in Weenen County were. But a system of local responsibility would make the Africans "vigilant" and ready to detect and report cases of stock-stealing in their own interests instead of screening the offenders in every way. <sup>(269)</sup>

In 1883 J. Walker, the member for Pietermaritzburg County, introduced a bill to alter and amend the Cattle Stealing Law (No. 10, 1876). He explained that in his neighbourhood the increase in this crime had become "alarming" and appeared to be in the form of "systematic robbery". <sup>(270)</sup> The records of the courts held by the Resident Magistrates at Ixopo and Richmond were clear evidence that cattle-stealing was on the increase. At a recent meeting of Pietermaritzburg farmers, the amount of crime spoken of "terrified one almost when summed up." <sup>(271)</sup> It seemed that everyone had had some complaint to make of depredations that had been committed. A return from one farm showed that 137 sheep had been stolen in 17 months from three flocks numbering 1 800. In moving the second reading of the Cattle Stealing Law Amendment Bill (No. 29, 1883), Walker proposed a three-fold remedy:-

1) In terms of Law No. 10 of 1876, anyone on the Voters' Roll was permitted to grant passes to those Africans who wished to remove their cattle. According to Walker, this had degenerated into a practice under which anyone who could write a few lines issued passes to the Africans. Accordingly, he recommended that the existing system of passes should be abolished and replaced by a new one. Under the new system, he proposed that permits should be issued by the Resident Magistrates to chiefs, heads of homesteads and other inhabitants of the district over which they presided. These permits would be made of coloured paper, the colour denoting the magistracy from which the bearer obtained the permit. The permits would be numbered consecutively and would be divided into three parts, one of which would be retained by the chief, one by the issuer of the pass, and the other affixed to the

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<sup>269</sup> . Ibid.

<sup>270</sup> . LC, 18 July 1883.

<sup>271</sup> . LC, 7 August 1883.

pass. The permits would only be issued to an applicant on the chief or other person authorised by the Resident Magistrate having satisfied himself of the *bona fides* of his application. In Walker's opinion, this system would place a very great check on those people who armed themselves with a few lines, even without a date or a signature, and traversed the countryside stealing cattle and sheep. He believed that even an illiterate African would tread warily near the new system. In addition, the chief issuing the permit would be expected to acquaint himself with the purpose for which an applicant was requesting the pass.

2) Walker wished to introduce a new system for detecting the crime of cattle stealing. Recognising the advantages in the employment of detectives, he asked the House to consider a system requiring each Resident Magistrate to furnish a roll at his office containing the names and addresses of people whom he knew were capable to act as detectives, and would be willing to be employed in that capacity, so that a farmer who required the assistance of a detective, and was willing to pay for such service, could hire one from the Resident Magistrate's office, who thoroughly understood the nature of his work.

3) As regards the punishment for the crime of cattle-stealing, Walker believed that it had to be sufficiently harsh to serve as a deterrent. In his opinion, the existing law, as administered at the time, was not serving this purpose, and the punishment of imprisonment appeared to have lost its effect to a large extent. He recommended transportation as the only feasible deterrent punishment likely to bring about the change desired. According to the Colonial Prisoners' Removal Act of 1869, an Imperial Act, colonial governments were permitted to remove prisoners to another colony, provided they obtained the consent of the government of that colony and the sanction of Her Majesty in Council to do so.

Since the punishment of transportation was regarded by most to be a potential problem, it was decided to refer the Bill to a Select Committee for consideration and report. <sup>(272)</sup>

On 10 September 1883 the House resolved to request the Lieutenant-Governor to appoint a Commission to enquire into the working of the Cattle Stealing Law, No. 10 of 1876. The Government consulted the Acting Judge of the Native High Court as to the necessity for this Commission and called upon him to report the number of cases which had been tried under the Law of 1876. The Judge's report indicated that since the year 1876, there had been no increase in the number of these crimes, which had averaged about 70 per annum. Of these 70 cases, all had been committed by

<sup>272</sup>. LC, 13 August 1883.

Africans, with approximately half against whites and half against blacks. The Judge considered that a principal cause of the crime was the laxity of the owners in the care of their flocks. Another cause of the crime was the great ease with which Africans obtained passes to drive cattle through the country. Under the existing law, every white man was empowered to grant a pass to an African. The Judge suggested that the law might be improved by introducing a provision making it a crime for an African to take possession of the dead carcasses of cattle which might be found in the veldt. <sup>(273)</sup>

The Government also asked the Resident Magistrates to report on the incidence of contravention of the Cattle Stealing Law of 1876. Their reports also allegedly showed that there had been no increase in the commission of this crime and therefore the Government did not consider it necessary to issue a Commission. <sup>(274)</sup> Instead, they introduced their own Cattle Stealing Law Amendment Bill (No. 5 of 1884), which attempted to make the acquisition of passes much more difficult than in terms of the existing law. Under existing legislation, passes to drive cattle through the country could be obtained from any white man. The new bill, on the other hand, provided that passes would only be issued by a Resident Magistrate, Administrator of Native Law, Justice of the Peace, the owner, or agent of the owner, of the cattle, or some other person authorised by the Resident Magistrate to grant passes. A pass would only be valid for 21 days. The second alteration to the law proposed by the bill was that of extending the provisions of Law No. 10 of 1876, relating to the stealing, killing, stabbing, or wounding of cattle, to the theft of the skin of any animal, or any portion of the skin, or the receiving of the skin knowing it to be stolen, and to the attempt to steal such animal or skin, and also to the appropriating or stealing of the carcase of any cattle or portion thereof. Any African found in the possession of the skin (or portion thereof) of any cattle bearing a brand belonging to another person, was bound to satisfy the Court that he had acquired it in a legal manner. If he could not do so, he would be considered guilty of the theft of the skin. It had been found that cattle were often stabbed, and sometimes killed, in the vicinity of African homesteads, crimes probably committed by the Africans of that area, but under the existing law, nothing could be done to these homesteads unless it could be proven that there had been a conspiracy among the Africans of those homesteads to suppress evidence. The new bill, however, empowered the courts to fine such homesteads if the guilty individuals could not be traced. An African who

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<sup>273</sup>. LC, 19 June 1884.

<sup>274</sup>. The criminal statistics suggest that cattle crimes were on the increase. In 1879 there were 60 convictions before the Superior Courts, while by 1883 the number of convictions had escalated to 106. NBB, Vol. 1, 1879, 1883.

harboured any person who had stabbed or killed cattle was liable, upon conviction, to a fine not exceeding £10.

Mr. Walton (Member for Newcastle) supported the bill, but believed that it could go further towards eradicating this particular class of crime. He took strong exception to the allegation of the Secretary for Native Affairs that cattle-stealing was not on the increase, claiming instead that the crime was "on the increase daily." <sup>(275)</sup> If the number of convictions had not increased, this was only because of the difficulty of tracking down the offenders. In the district where he resided, Walton claimed that losses of stock were constantly occurring, and although they could not trace the stock as having been taken by one particular person or class of persons, the suspicions were so strong that "to say that one or more of the natives living in the neighbourhood of the places where the thefts have occurred, are the culprits, is to say what is the firm belief of all stock-rearers and owners in the Colony." <sup>(276)</sup> Walton estimated that between five and seven-and-a-half per cent of all stock raised in Natal was stolen each year and was never recovered. People who resided amongst stock owners were constantly being called out to assist in tracing culprits. Invariably, however, their attempts came to nought. Walton blamed this situation on the fact that the colony's police force was incapable of tracing the spoor to enable culprits to be brought to justice. He considered that the Mounted Police Force, which had been raised for that special purpose, had been totally ineffective in addressing this problem. The Native Police, who were attached to the magistracies, had their own special duties, and could not afford to remain away from the centre of the magistracies trying to trace thefts of stock. In Walton's estimation, unless some police supervision and a detective system were initiated to carry out the provisions of the new bill, the new law would remain as the Law of 1876 had remained, a dead letter. Walton claimed that it was a well known fact that on moonlit nights African youths could be seen trespassing on lands where they had no place. But it was impossible to catch them: "They are moonlight flitters. They are like a moon-beam. They are in the valley again before you get to the top of the hill where you saw them, and so are their dogs. And they are not alone. They are simply the advance guard of a strong party behind." <sup>(277)</sup> Walton concluded that there would never be a diminution in the thefts of stock unless the law enabled them to follow up circumstantial evidence and compelled Africans to clear themselves of any substantial evidence.

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<sup>275</sup> . LC, 19 June 1884.

<sup>276</sup> . Ibid.

<sup>277</sup> . Ibid.

Mr. Escombe said that the bill was calculated to maintain friendly relations between whites and blacks, and warned that pastoral crime of this nature would cause other problems in the future and would retard the development of the colony. He criticized the Government for allowing the existing law to become a dead letter and for allowing the police to be negligent in their duties.

Mr. Richardson also supported the bill, but like Mr. Walton did not think that it went far enough. Richardson had found the Mounted Police to be a valuable force and farmers in his district had told him that thefts had almost entirely ceased since the patrols of the Mounted Police commenced. He was in favour of a system of district responsibility, a concept well known to the African; when proof was given of theft, all the members of that district became liable for the amount of the theft. This system did not depend on the police alone, but turned every man of the district into a detective.

The Colonial Secretary thought that it was possible that the African "gets a little hard measure sometimes as regards these accusations of cattle stealing" and he hoped that the new bill would also deal with the white cattle thief. These whites, "of course of a low class", bought cattle and sheep from Africans without asking any questions, and thus, in his opinion, had a great deal to do with stock thefts in the colony. He considered that there were many farmers who were careless flockmasters, who immediately blamed Africans when they lost their stock. While admitting that a great deal of stock-stealing was carried on by Africans, he warned that Africans had no representatives in the House and therefore were not present to defend themselves. The Colonial Secretary pointed out that white people often raided African mealie gardens, destroying a great deal of their produce, and hence they should not be too hard on "our uncivilised brethren when in revenge they take - wrong as no doubt it is - the law into their own hands." He did not perceive the Africans of Natal as the "tremendous ogres" which Mr. Walton had sketched them to be. <sup>(278)</sup>

During the debate the Attorney-General made a remarkable statement: "I think the hon. member is altogether mistaken. He does not appear to understand the difference between a person and a Native." <sup>(279)</sup> The Attorney-General was attempting to explain that the new law would apply only to Africans driving stock, and not to white people. Statements such as this, however, were commonplace in colonial Natal, and provide an important insight into the attitude and thinking of the region's white population. Blacks were not perceived as normal people, but as threatening obstructors of the safety, peace and development of the colony. Mr.

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<sup>278</sup>. Ibid.

<sup>279</sup>. LC, 23 June 1884.

Robinson warned that cattle-stealing was growing to such an extent that it posed a serious threat to the stock breeding industry. Whilst admitting that cattle were stolen by members of the community other than Africans, he regarded it as a fact that the Africans were the great cattle stealers of the colony. He feared that the serious increase in stock thefts might cause some of Natal's foremost inhabitants to leave the country. In the neighbouring Republics farmers did not have to worry about the protection of their property and stock. In Robinson's view, the reason for this was that in Natal laws were not carried into effect as they were in the Republics and Natal's African population did not have the same respect for governmental authority. He hoped that if the Bill was passed, the new law would be carried stringently into effect. The recent appointment by the Government of a considerably larger number of Native Constables in attendance upon Magistrates and Administrators of Native Law was a most encouraging development.

Mr. Boshoff suggested that the Mounted Police should undertake night patrols since it was during the hours of darkness that the majority of stock thefts were perpetuated. <sup>(280)</sup>

The bill was read a third time and passed into law as Law No. 46 of 1884. <sup>(281)</sup> Law No. 10 of 1876 and the new law would be read and construed together as one law.

By 1884 it was reported that sheep-stealing was "as bad or worse than ever". <sup>(282)</sup> Angry farmers were on the verge of taking the law into their own hands: "I hear the most bitter complaints on all sides, many men are getting desperate, and when men get into that frame of mind they are apt to do things they would not do except under strong provocation. If the thieves were shot by some enraged farmer, it would cause me very little surprise, and something of the kind is almost certain to happen if this state of things continues." <sup>(283)</sup> The perception of farmers was that it was equally impossible to catch a thief and to secure a conviction against him. Sheep-farmers complained about the absence of any system of local government in the colony and the resulting absence of any local police force by which stock-thefts could be kept in check. Apart from midnight watching and shot-guns, this system was considered to offer the only hope to demoralised farmers throughout Natal. But it appeared that the majority of sheep-farmers preferred to lose their stock and curse the Government and the Africans than pay for the protection of their flocks. <sup>(284)</sup> The question of African tenant farmers on white land also aroused some controversy. Some farmers

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<sup>280</sup> . LC, 24 June 1884.

<sup>281</sup> . LC, 30 June 1884.

<sup>282</sup> . NW, 6 March 1884.

<sup>283</sup> . Ibid.

<sup>284</sup> . NW, 27 May 1885.

believed that African tenants should be driven off the land so that they would not have the opportunity to remove stock from their masters. Although this would mean a corresponding loss of labour, it was considered that the nett result for the farmer would be most favourable. But because the labour of African tenants was generally cheaper, most white farmers were reluctant to dispense with their services. Such farmers were severely criticized by the anti-tenant lobby for being short-sighted; what they saved in wages, it was claimed, they would more than lose in stock-thefts.

Other sheep-farmers, however, were in favour of the system of African tenants residing and working on their land. It was claimed that a farmer surrounded by African homesteads, but with none on his land, had very little chance of detecting thieves. The pro-tenant lobby argued that homesteads on one's land often acted as watch-dogs, since stock was seldom taken without their being aware of it. Fearing that they might be turned off the land, African tenants often told thieves to leave the area, gave information that led to the detection of thieves, or conducted their own detective work by watching at night, catching and bringing the thieves to the owner of the sheep. <sup>(285)</sup>

The reports of the Resident Magistrates appeared to indicate that stock thefts were a growing evil, but that the irresponsibility of many stock farmers was also contributing to their losses. The R.M. for Lion's River reported that farmers complained bitterly of sheep-stealing by Africans. While he had no doubt that the annual loss to sheep-farmers through stock thefts was considerable, he blamed the farmers themselves for a good deal of the losses they sustained. Many farmers allowed their African tenants or servants to eat the carcasses of sheep which had died from natural causes; it thus became very difficult to distinguish between cases of theft and legitimate feasting. He claimed that in the Lion's River Division sheep were allowed to run night and day and in some cases were not counted for months. The flocks of different owners were constantly mixing and when the brands became indistinct from wear, it was often difficult to distinguish to whom the sheep belonged. Neighbours' sheep were sometimes sheared by mistake and rebranded with the shearer's brand. <sup>(286)</sup>

The R.M. for Klip River reported that sheep and goat-stealing and killing had increased, but also criticized farmers for not taking reasonable care of their stock. He claimed that it was a "universal habit" for farmers to allow their stock to sleep out in the veldt at night (unkraaled), since they alleged that stock thrived under such

<sup>285</sup>. NW, 10 June 1885.

<sup>286</sup>. NBB, Vol. 1, 1884.

conditions. This was irresponsible and obviously putting temptation in the way of thieves. <sup>(287)</sup>

The R.M. for Weenen County reported "great, and I fear increasing, depredations amongst the flocks of sheep and goats belonging to Europeans." He estimated that the losses sustained by individual farmers ranged from 20 to 80 head per annum and in "scarcely one such case" had the perpetrators been detected. He recommended the enforcement of local responsibility as the only effective remedy for checking this "very serious and growing evil". He feared that if these crimes were not crushed, they would result in collision between the plundered and the plunderers with very grave results to the peace and well-being of the community. <sup>(288)</sup>

The R.M. for Umvoti County feared that sheep-stealing would never be entirely checked as long as African herd-boys were employed. These boys had numerous opportunities for stealing and killing livestock, a common practice among them allegedly being to suffocate the animals by closing their nostrils, thus leaving no trace of the cause of death. <sup>(289)</sup>

The Registrar of the Native High Court reported that 99 cattle-stealing cases were tried in 1884, compared with 70 cases in 1883. He believed that only the imposition of corporal punishment could put a stop to the high incidence of these crimes. He also had reason to believe that large numbers of sheep were killed by dogs and wild animals, while others mixed with neighbouring flocks and were thus placed beyond recognition, either purposely or otherwise, by the obliteration of brand marks. <sup>(290)</sup>

The Natal Mercury outlined the dangers of cattle-stealing for the future of the colony: "It is a crime which does more to breed war and race hatred than any other class of offence. It has led to war after war in the Cape Colony, and if allowed to flourish unchecked here it will in course of time revolutionise the [good] relations that have hitherto existed between the colonists and the natives." <sup>(291)</sup> Several of the African locations were considered to be dens of cattle thieves who preyed on the flocks and herds of white settlers. For example, the Africans of the Impendhla Location were said to be very active in the Boston district, causing widespread losses to the farmers of that region. <sup>(292)</sup> The Mounted Police at Boston had been responsible for "a little improvement", but colonists were in agreement that a more effective system

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<sup>287</sup> . Ibid.

<sup>288</sup> . Ibid.

<sup>289</sup> . Ibid.

<sup>290</sup> . Ibid.

<sup>291</sup> . NM, 21 June 1884.

<sup>292</sup> . NM, 27 August 1886.

of detection was needed in order to address more effectively the problem of stock thefts. <sup>(293)</sup>

The frequency of stock thefts in the country districts convinced legislators that it was necessary to regulate the removal of stock from place to place in order to make the detection of offenders easier. It was also considered necessary to provide for the punishment of people who stole cattle skins or who were found with skins unlawfully in their possession. As a result, a Cattle Removal Bill (No. 6, 1884) was introduced before the House. The Attorney-General, in moving the second reading of this bill, remarked that a great impediment to the detection of the thieving of cattle was the fact that legislative measures had been confined to the African population alone. The new bill would apply to whites, Indians, Arabs, Hottentots and all other persons in the colony the restrictions already in force against the Africans. Cases involving whites and Indians, however, would be tried in a different court, and tribal responsibility would not be applied. The Attorney-General believed that if the measures which had been introduced by the Government were carried out in their entirety, there would be very little cattle-stealing in Natal. Comparing the records of thefts of this nature in other colonies with those in Natal, he deduced that Natal compared very favourably, "as it always does in criminal matters." <sup>(294)</sup> In his opinion, the new bill did not infringe on the character, honesty or responsibility of the white population, but would help to carry out the Cattle Stealing Laws of the colony in their entirety. After a third reading, the bill passed into law. <sup>(295)</sup>

The main provisions of Law No. 30 of 1884, "To Regulate the Removal of Cattle within the Colony of Natal, and to make Provision for the Punishment of Persons found guilty of Stealing or of being in the unlawful possession of Cattle Skins", were as follows:-

Section 1: Any person wishing to move stock more than ten miles was required to procure a certificate from the local magisterial official.

Section 2: The R.M. would only grant the certificate once he had satisfied himself that the person was the lawful owner of the stock. A certificate would only be valid for 14 days.

Section 3: A magisterial official, policeman, keeper of a toll-bar or landholder, through whose land cattle might be driven, was entitled to demand this certificate from the driver of cattle and check the contents thereof. If the driver failed to produce a certificate or if the circumstances of the removal of cattle were not

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<sup>293</sup>. NM, 28 August 1886.

<sup>294</sup>. LC, 19 June 1884.

<sup>295</sup>. LC, 23 July 1884.

consistent with the information on the certificate, the cattle would be impounded.  
(<sup>296</sup>)

Many sheep farmers considered that the chief reason for the increase in sheep-stealing was the mistaken leniency of the sentences imposed on the thieves. One such farmer claimed that stealing had increased twenty-fold in districts where Africans had realised that the maximum penalty was likely to be two years' imprisonment. (<sup>297</sup>) He believed that a would-be thief would think twice about committing a crime if he knew that six or eight years' hard labour awaited him. He claimed that sheep-stealing was both lucrative and easy to carry out. A thief, with a fair amount of good luck, could probably steal 100 sheep before detection, at which time he would probably receive two years' imprisonment with plenty of food and a little exercise. On coming out of gaol the man still possessed wealth to the value of 100 sheep and was in a far better position than if he had worked for two years. He alleged that sheep-stealing on the Zululand border was almost unknown because the punishment was death, but on the Pondoland border, where thieves were only fined, stealing was rife.

The stealing, stabbing and killing of stock appears to have been a perennial problem in Natal's country districts, giving rise to regular complaints from both administrators and colonists. In 1884 there were 119 convictions in the Superior Courts for crimes against cattle, the highest figure for the decade. Although the number of convictions declined steadily until 1887 (73 convictions), they continued to increase once again thereafter. It was reported that numerous cases, "perhaps hundreds of them", were tried before the magistrates each year. (<sup>298</sup>) The reports of the Resident Magistrates appeared to confirm the popular perception that stock crimes were widely prevalent and on the increase. Although convictions for stock crimes decreased slightly during 1885, the R.M.s for Newcastle, Klip River and Alfred County reported an increase in the incidence of these crimes. During 1886 convictions declined further, but in certain divisions there appeared to be no diminution in this class of crime. The R.M. for Weenen, for example, argued that this "most serious and heinous offence" could not be properly checked unless it was made the interest of the Africans themselves to prevent it. He blamed the Native High Court for handing down sentences which were "wholly inadequate to produce a deterring influence." (<sup>299</sup>) Evidence of this was the repetition of such offences by Africans, who had been convicted and punished, almost as soon as their period of punishment was at an end. The Commandant of

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<sup>296</sup> . NGG, 11 Nov. 1884.

<sup>297</sup> . NW, 10 June 1885.

<sup>298</sup> . LC, 2 Nov. 1886.

<sup>299</sup> . NBB, Vol. 2, 1886.

the Natal Mounted Police criticised farmers for "seldom or never" reporting thefts at police stations immediately after they had occurred. This made it extremely difficult for the police to trace the criminals. In addition, farmers were allegedly "as a rule" unable to state whether missing stock had been actually stolen or had only strayed.<sup>(300)</sup>

During 1887 convictions for crimes against cattle continued to decrease, the majority of magistrates reporting that fewer complaints had been received. The R.M. for Ixopo reported that many complaints of sheep-stealing had been made by farmers, but in only a few instances had the thieves been apprehended and brought to justice. He criticised many of the farmers for "expecting everything to be done for them by the authorities", while they themselves did not do everything in their power to protect their own property.<sup>(301)</sup> He feared that as long as there were Africans and sheep farmers in the country, thefts of sheep would continue to a greater or lesser extent according to the vigilance or lack thereof displayed by the owners of flocks. J.G. Dartnell, the Commandant of the Natal Mounted Police, reported that his patrols continued to complain of the "very meagre information and little assistance" rendered by farmers who reported losses of stock.<sup>(302)</sup> Very rarely were losses reported immediately at the Police Stations; farmers usually waited until the next patrol called at the farm a few weeks later. He considered it strange that some farmers (especially sheep-farmers) constantly complained of losses, while their neighbours said they seldom or never lost sheep except from causes which could be accounted for. Dartnell believed that while losses did occur through theft, in many cases they could be attributed to improper care and supervision on the part of the farmers themselves. He also thought that losses were possibly exaggerated in some instances in order to force the question of tribal responsibility on the attention of the Government.

According to the criminal statistics, the number of convictions for cattle crimes increased by 27% during 1888, suggesting that these crimes were on the increase. Even the Attorney-General, however, acknowledged that in the absence of any means of ascertaining the exact extent to which this class of crime was practised without detection or without being reported to the police, too much reliance should not be placed upon the figures appearing in the returns.<sup>(303)</sup>

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<sup>300</sup> . Ibid.

<sup>301</sup> . NBB, Vol. 2, 1887.

<sup>302</sup> . Ibid.

<sup>303</sup> . NBB, Vol. 2, 1888.

It is now possible to analyse the extent of property crime committed in the colony during the 1880s in the light of the state of Natal's economy during this period. The following table reflects the number of convictions for thefts committed by whites, Indians and Africans in the Borough of Durban for the period 1880-1889:- <sup>(304)</sup>

	<u>Whites</u>	<u>Indians</u>	<u>Africans</u>	<u>Total</u>
1880	51	73	116	240 (h/b & t)
1881	36	96	139	271 (h/b & t)
1882	18	80	161	259 (h/b & t)
1883	34	95	146	275 (h/b & t)
1884	26	93	141	260
1885	30	81	168	279
1886	37	91	176	304
1887	16	114	139	269
1888	20	91	131	242
1889	29	86	183	298 <sup>(305)</sup>

The above figures indicate that the number of convictions for theft in Durban increased by approximately 25% during the decade, reaching a peak in 1886 after five years of severe depression. Throughout much of the 1880s, however, the incidence of thieving remained relatively constant, suggesting that either there was no economic necessity to steal, or that the borough's police force had the situation well under control. The evidence suggests that, although African farmers did come under various pressures during the 1880s, there was still no pressing need to move to the urban areas to forge a living. Those Africans who were urbanised, however, were responsible for the overwhelming majority of thefts. Durban's Indian population also showed proficiency in this regard, being convicted on average three times more often than whites. These statistics, which appeared in the Natal Mercury from time to time, would have convinced white colonists that Indian and African dishonesty was an established fact. By 1889 theft (298 cases) remained one of the most important crimes in the Borough of Durban, placing third behind contraventions of the bye-laws (4 728 cases) and the vagrant laws (328 cases).

Durban's population had continued to increase throughout the 1880s:- <sup>(306)</sup>

	<u>Whites</u>	<u>Indians</u>	<u>Africans</u>	<u>Total</u>
1880	6 736	3 309	3 817	13 862
1883	8 236	4 169	3 812	16 217
1886	8 590	3 456	4 385	16 431
1889	9 859	4 853	6 034	20 746

<sup>304</sup> . MM, Dbn, 1880-1889.

<sup>305</sup> . h/b & t means house-breaking and theft.

<sup>306</sup> . MM, Dbn, 1880-1889.

In view of the fact that the borough's African population was responsible for between 48% and 62% of the thefts committed during the 1880s, it is particularly instructive to examine the population trends for this section of Durban's population:- <sup>(307)</sup>

African Population of the Borough of Durban

1880	3 817	1885	4 521
1881	3 480	1886	4 385
1882	4 367	1887	4 561
1883	3 812	1888	5 057
1884	4 220	1889	6 034

Between 1880 and 1886 Durban's African population fluctuated between growth and decline, the overall growth for the period being a relatively low 13%. Although the African agricultural sector, particularly the peasant farmers, was beginning to come under pressure, these pressures were still bearable and there was no great movement of rural Africans to the 'white' towns during these years. There was also little incentive to move to town since during this period of severe economic depression, the number of employment opportunities would have been very limited. While Durban's African population grew by only 13% between 1880 and 1886, the number of thefts committed by this group increased by 52%, indicating both the relative deprivation of these people during the depression years and their increasing absorption into a European civilization in which property crimes were usually prevalent. Between 1886 and 1889, however, Durban's African population increased significantly (by 38%), in response to the increasing burdens facing African farmers in the reserves and elsewhere, and the greater number of employment opportunities in the town as the colony moved into a period of economic prosperity. The number of thefts committed by Africans in Durban decreased (1886: 176 cases; 1889: 131 cases, representing a decrease of 26%), a reflection of the more favourable economic circumstances, but increased again during 1889 (183 cases) as Natal moved into the grips of a recession.

Crimes involving cattle must also be considered in relation to the state of the colonial economy. The following table reflects the number of cases of stealing, killing or wounding cattle tried in the Superior Courts during the period 1880-1889:- <sup>(308)</sup>

<sup>307</sup> . MM, Dbn, 1880-1884.

<sup>308</sup> . NBB, Vol. 1, 1880-1889.

	<u>Convicted</u>	<u>Acquitted</u>	<u>Not Prosecuted</u>	<u>Total</u>
1880	90	9	6	105
1881	81	14	2	97
1882	82	18	1	101
1883	106	40	0	146
1884	119	45	5	169
1885	116	19	0	135
1886	89	26	0	115
1887	73	29	0	102
1888	93	20	0	113
1889	52	13	0	65

Between 1880 and 1881, a period of economic prosperity, convictions for cattle crimes decreased as one would expect. Over the next three years, 1881-4, when Natal was hit by a depression, crimes against cattle increased; economic hard times contributed to an increase in property crimes as men sought to supplement their struggling income through theft. Incredibly, though, in the very midst of the depression (1885), cattle crimes began to decrease, and when economic prosperity returned during 1887-9, these crimes declined even further, reaching a low for the decade of 52 convictions by 1889. The R.M. for Lion's River attributed the relatively few complaints he had received during 1886 to the increased security which wire fencing provided and to the vigilance of the Mounted Police in his division. <sup>(309)</sup> The Attorney-General attributed this decrease to the stringent regulations in force regarding the removal of cattle, and the adoption of wire fencing in all parts of the colony. <sup>(310)</sup> Thus some positive relationship can be discerned between the convictions for cattle crimes and the state of the economy. As in the previous decades, African people were primarily responsible for the prevalence of the stealing, killing and wounding of cattle.

Finally, it is also instructive to investigate the relationship between property crimes generally and the prevailing economic climate in the colony during the 1880s. The following table reflects the number of convictions for property crimes committed in the Colony of Natal for the period 1880-1889:- <sup>(311)</sup>

<sup>309</sup> . NBB, Vol. 2, 1886.

<sup>310</sup> . NBB, Vol. 1, 1887.

<sup>311</sup> . NBB, Vol. 1, 1880-1889.

	<u>Total Property Offences Reported to Magistrates</u>	<u>Summary Convictions</u>	<u>Convictions in Superior Courts</u>	<u>Total Convictions</u>
1880	1 563	746	151	897
1881	1 655	794	147	941
1882	1 459	1 141	~145	~1 286
1883	1 384	827	131	958
1884	1 540	940	189	1 129
1885	1 788	1 050	169	1 219
1886	1 636	974	141	1 115
1887	2 144	1 076	138	1 214
1888	1 508	902	144	1 046
1889	1 639	1 077	87	1 164

Convictions for property crimes increased during the first three years of the decade as Natal moved into a period of economic depression. In 1883, however, in the midst of the depression, these crimes suddenly decreased by about 25%. For the remainder of the decade the number of convictions for property crimes tends to fluctuate and does not appear to be influenced by the state of the colonial economy. Considering the decade as a whole, convictions for crimes against property increased by 30% between 1880 and 1889. It was both a perception (amongst whites) and a fact that the vast majority of these offences was perpetrated by the colony's black population, in particular the indigenous African population. In comparison with their traditional tribal society, in which opportunities for committing property offences were by definition few, and punishments were harsh, <sup>(312)</sup> Africans who came into contact with white civilization found that there were numerous opportunities for acquiring the property of others. Africans who became urbanised were particularly susceptible to the attractions and ravages of civilised society; not only had they escaped from the restrictive bonds of their original societies, but in the 'white' towns they were exposed to property which was often new to them and which they wished to acquire. Dishonest Africans no doubt realised that the laws of the white man would not deliver such harsh punishments upon him as his own traditional law. There was a frequent, and sometimes valid, cry among the colony's white residents, that the laws of Natal were insufficient to deal with the many crimes and social problems which prevailed in the region.

The early 1890s brought little relief for the colony's stock farmers, who continued to complain bitterly about widespread losses suffered at the hands of African cattle thieves. Some sheep farmers claimed to have lost 30 per cent of their sheep during 1890 in spite of keeping a watcher and exercising the utmost vigilance. One farmer allegedly lost 300 out of the 600 lambs in his flock: "The kafirs cut the poor little

<sup>312</sup>. Thefts were rarely committed in traditional Zulu society. The penalty for theft was usually death.

things' throats and tuck them under their coats." <sup>(313)</sup> The Registrar of the Native High Court, R.H. Beachcroft, reported that stock-stealing was increasing and that farmers were unable to discover any remedy whereby to stamp the crime out. In a large percentage of the cases heard before the Court the accused were young boys ranging from 10 to 15 years of age. Beachcroft considered that until the judge was allowed discretionary power in using the lash, instead of imprisonment, this "curse" would increase. <sup>(314)</sup>

Farmers complained frequently that they often went to great trouble to bring a thief before the magistrate, but that magistrates tended to dismiss these cases on the grounds that there was insufficient evidence to secure a conviction. <sup>(315)</sup> Farmers believed that magistrates and the Natal Government were scared of the Africans, therefore being reluctant to convict them and instead continually giving up land to enlarge the locations in order to placate them. Many farmers were considering abandoning sheep-farming, claiming that during the past 20 years their flocks had not increased but diminished from their original and subsequent purchases. It was estimated that the loss in wool for 1890 was over £186 000, representing not only a substantial loss to individual farmers, but to the colony as a whole in the form of lost revenue from wool exports.

In April 1890 Mr. Van Rooyen moved before the Legislative Council that a Select Committee be appointed to enquire into and report upon the best means of checking thefts of stock: "It is an undisputed fact that thefts of stock are continually going on, and the great difficulty is in finding out the offenders. It is very seldom that offenders are caught and punished." <sup>(316)</sup> This resolution, amended to include the prevention of stock destruction also, was agreed to by the House and the Committee was duly appointed.

In June 1890 the Select Committee (No. 3, 1890) on Thefts and Destruction of Stock delivered its report before the House. <sup>(317)</sup> The Committee reported that between 1 January 1889 and 25 April 1890 71 cases of cattle-stealing came before the Native High Court, resulting in 65 convictions. The sentences of imprisonment imposed

<sup>313</sup>. NM, 12 May 1890.

<sup>314</sup>. NBB, Vol. 2, 1890-1.

<sup>315</sup>. Many farmers contributed unwittingly to the incidence of sheep-stealing by failing to report their losses. The patrol sheets of the Mounted Police were apparently nearly always left blank because farmers often considered it a waste of time and effort to report thefts when, in their view, nothing would be done to bring the thieves to justice.

<sup>316</sup>. LC, 24 April 1890.

<sup>317</sup>. NGG, 17 June 1890.

varied from two months' to six years' imprisonment, the larger number being for 12 months, two years and three years respectively, while the average was 23.163 months. Twenty of these sentences also carried a number of lashes, from 12 to 25 strokes. There were four sentences of whippings only and in one case a fine of £20 was imposed.

During 1889 49 complaints had been received by the Natal Mounted Police concerning the theft or destruction of stock. The Commandant of the Natal Mounted Police said that all complaints made to the patrols were reported to the R.M., and that, if requested, a Native Detective was sent to reside on the farm for a short time. Very few arrests, however, had ever resulted from the employment of these Native Detectives, though their presence was thought to have acted as a deterrent. The Commandant was of the opinion that fencing would be the best antidote to stock-stealing, but remained firmly convinced that the frequency and extent of stock-thefts (especially sheep) were exaggerated by farmers who failed to allow for a sufficient percentage of deaths from natural causes or destruction by dogs. He suggested that some control should be exercised over purchases by butchers and other buyers of meat with a view to preventing the disposal of stolen stock to them. This could be achieved by the compulsory keeping of a register recording a description, such as the brand marks, of all stock bought for slaughter purposes, from whom such stock was bought, and the purchase price.

The Committee found that "with very few exceptions" the stock-farmers of Natal reported "serious losses" of stock, the losses being generally attributed to theft, and frequently to destruction by dogs. <sup>(318)</sup> The losses of stock could be classified in three different categories. Firstly, stock which was lost at the rate of one or two animals per time. The majority of thefts fell into this category, it being thought that Africans used their plunder as food for themselves. The accumulative effect, however, of losing a few animals on a number of occasions over a long period of time was extremely damaging to the farmer. Secondly, the loss of stock in much larger numbers - twenty, thirty or a hundred animals - where there was no trace left of them. Losses of this nature were likely to drive farmers off the land. These animals disappeared under circumstances which suggested that the sheep were stolen by someone who afterwards drove the flocks to localities where they apparently anticipated to find a profitable market. The Committee reported that some whites were purchasing stock being driven by Africans who were not carrying the passes for such stock as required by law. Thirdly, the destruction of stock by dogs. Reports indicated that on frequent occasions twenty to thirty sheep were

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<sup>318</sup>. Ibid.

killed by dogs in a single night. Although these dogs could be shot on sight, it was virtually impossible to track them down. Most did not wear collars or badges.

Some farmers were reluctant to report thefts of stock to the authorities, alleging that previous experience had taught them that it was practically useless to bring such matters to the notice of Resident Magistrates or the Natal Mounted Police. Resident Magistrates, on the other hand, claimed that the farmers were themselves partly to blame for not exercising a greater personal supervision over their stock. The Police argued that the interval which, in many cases, was allowed to elapse between the committal of the theft and the laying of the information tended greatly to diminish the likelihood of detection. It was reported from several districts that large losses of stock were caused by destruction by dogs, in most instances owned by Africans. As many as 30 sheep were alleged to have been killed in one night, and in the majority of cases the owners had been unable to obtain any compensation. Many people were of the opinion that under the existing system of collection the Dog Tax was frequently evaded by Africans who often possessed a large number of dogs. This caused "considerable inconvenience" to the occupiers of farms in their neighbourhood, while being of no practical use to the Africans themselves. <sup>(319)</sup>

The Committee was satisfied that heavy losses were frequently incurred by farmers through thefts and the destruction of stock. The allegations of stock farmers were often corroborated by returns from the Resident Magistrates. The Committee expressed concern that several of the Resident Magistrates appeared to be unaware of the extent to which the laws provided for the detection of these thefts, and to be unacquainted with the process by which, under Law No. 44 of 1887, upon reasonable grounds for suspicion being shown, cases of alleged thefts of stock could be reported by the Resident Magistrates to the Government, with whom resided the power to enforce local or district responsibility upon the homesteads in the neighbourhood of the farm from which the stock were taken.

In an attempt to alleviate the problem, the Committee brought forward a number of recommendations:-

a) The Government ought to make more generally known, particularly among Africans, the provisions of Laws No. 10 of 1876, and No. 46 of 1884, and of Section 6 of Law No. 44 of 1887. The Committee did not advise the enforcement of tribal responsibility, but local or district responsibility might be applied in certain cases in which reasonable suspicion existed, and in which no other means were available for the detection of the theft.

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<sup>319</sup>. Ibid.

b) A Native Detective Force should be organised, to be attached either to the Courts of the Resident Magistrate, or to the Natal Mounted Police, and a system of rewards for the detection of thefts of stock should be instituted, to which the owners of any stock recovered should be asked to contribute.

c) The laws and regulations with respect to the granting and examination of passes to Africans for the driving of stock should be more rigorously enforced. The Natal Mounted Police ought to keep a register as to the examination of such passes and of any action taken thereon.

d) The purchaser of any stock from an African or Indian should be required to obtain from the seller the pass necessary for the driving of such stock by that African or Indian, or otherwise should be held criminally responsible. (This would require legislation and was an attempt to corner whites who were suspected of illegal stock dealing.)

e) The Trespass Laws should be more strictly enforced by owners of property in order to reduce the opportunities for driving stolen stock with impunity across the country.

f) Except in cases of boys under fifteen years of age, the sentence upon first conviction for thefts of stock should be not less than two years' imprisonment, and the sentence for conviction for second and subsequent offences should be not less than five years' imprisonment. All sentences for thefts of stock should be accompanied by flogging and the terms of imprisonment in such cases should be served by the prisoners in some gaol other than in the district of their own habitation. (This recommendation would also require new legislation. The Acting Colonial Secretary complained that the stipulation of minimum sentences left judges with few discretionary powers.)

g) In lieu of the existing method, the Dog Tax should be collected from Africans by means similar to that used for the collection of the Hut Tax. The full amount of £3 should be enforced in all cases of conviction for evasion of the Dog Tax, a third of the fine to go to the informer. The official badge on the dog collar ought to be renewed yearly and indicate, in addition to the number of the license, the year for which it was issued. It should be compulsory for all dogs, whether owned by whites or Africans, to wear the official badge.

The House agreed that the foregoing resolutions, together with a copy of the Committee's report, be forwarded to the Governor, requesting the Government to take the appropriate action. <sup>(320)</sup>

In a letter to the Natal Mercury, a sheep farmer, writing under the non-de-plume 'A Sufferer from a Weak and Incompetent Government', painted a picture which many of his fellow farmers could readily identify with. The wholesale stealing of their sheep had, in his view, become intolerable and a disgrace to the colony. Twenty-three years previously he had placed 500 well selected sheep on an excellent sheep farm in the midlands of Natal and had from time to time purchased the best imported rams and over 300 superior lambs eight months old. He had hoped that these sheep would have afforded him a good income in his old age. For some years, although always a good many were stolen, they had done fairly well and he had received a sound income from the wool. But the thefts had gradually increased, until by 1890 he found that he only had between 200 and 300 remaining. These he sold off at a low price because "the kafirs had taken the best." <sup>(321)</sup> He considered that fencing was the worst possible thing for sheep farmers. He himself had erected seven miles of fencing at a great expense, but sheep thieves merely drove their prey into the corners, making their task even easier than previously. In recent months the thieves had appeared to prefer ewes heavy in young so that in the past year he had received very few lambs.

The theft of fruit in areas surrounding Durban was a further problem confronting white settlers. In 1891 the residents of Bellair, Malvern and South Coast Junction presented a petition (No. 5, 1891) to the Governor complaining about the theft of their fruit by Indians and Africans. When the petition came before the Legislative Council for consideration, Mr. Stainbank moved that a bill should be introduced "applying to the carriage and sale of fruit the same regulations as apply to the driving and selling of cattle by Natives and Indians, or otherwise to give such relief as may be possible, to the petitioners." <sup>(322)</sup> This was the typical response of white legislators to the pleas of their white brethren. Legislation was usually deemed necessary in order to place the black section of the population in their proper place and to ensure that the security and happiness of the white colonists was not impeded. Politics, no doubt, also played an important part in the proceedings; legislators such as Stainbank had to safeguard the interests of their voters or they would be forced into the political wilderness. Liberal politicians who argued in favour

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<sup>320</sup>. LC, 9 June 1890.

<sup>321</sup>. NM, 5 Dec. 1891.

<sup>322</sup>. LC, 2 July 1891.

of the rights of the black man were unlikely to last long in a colonial atmosphere where 'white was right' and blacks were unwelcome visitors at best.

Stainbank painted a picture of utter dishonesty among the Indians who were settling in the district surrounding the petitioners, i.e. Bellair, Malvern and South Coast Junction. His description was compatible with the stereotype of the Indian as developed by the white colonists:

These Indians have very small plots of land, gardens in some cases not even as large as the chamber in which we are now in. Yet these Indians sell, I was going to say, tons of fruit every year in the open market. It is well known you will see troops of Kafirs coming into town almost every day over the Berea employed by these Indians to bring in the fruit from these little gardens of the size I have described. It is evident they cannot do that honestly. I have also known cases in which white men have settled in the neighbourhood of Durban County, just across into Victoria County, where Indians have settled around them with small gardens, and the white man has reaped nothing off his ground, although he may have planted large quantities of various kinds of fruit and vegetables. But the Indians around him with just perhaps two or three cabbages, one pumpkin vine, and so on have grown enormous crops. It is the same with mealies. A white man grows perhaps ten acres of mealies, and he will find that off that ten acres he will get ten muids[per acre], while the Coolie with a quarter of an acre of the same land will get ten or twelve muids. It is very evident where they come from. <sup>(323)</sup>

It was inconceivable to distorted thinkers like Stainbank (and most white Natalians thought in a similar manner) that motivated Indian farmers, employing sound agricultural techniques, could produce larger crops than their white counterparts and so dominate the fruit and vegetable markets in and around Durban. In his mind, they had to be employing illegal tactics. Whether it was business or agriculture, the whites of Natal perceived Indians as an economic threat and calls were frequently made to limit the position of Indians to indentured labour on the sugar plantations.

In 1891 the Industries Committee submitted its final report to the Legislative Council for consideration. Stock thefts were merely one of a number of problems which the Committee addressed. They found that the only recommendation of the report of the Select Committee of 1890 to which effect had not been given was that referring to the question of punishments - "That, except in cases of boys under fifteen years of age, the sentence upon first conviction for thefts of stock should be not less than two years' imprisonment, and that the sentence for conviction for second and

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<sup>323</sup>. Ibid.

subsequent offences of this character should be not less than five years' imprisonment; that all sentences for thefts of stock should be accompanied by flogging." The Industries Committee urged the Government to give immediate effect to this recommendation which it regarded as a "most important and necessary one." <sup>(324)</sup> The Committee, in its examination of witnesses, magistrates and others, ascertained that the Native Patrol Police attached to the various magistracies had been of great service not only in the detection of crime, but, to an even greater extent, in the prevention of crime. It recommended a very large increase in the size of this force.

The Industries Committee proposed further that in cases of thefts of stock where proof was insufficient to warrant a conviction, clause 6 of Law No. 44 of 1887 (community responsibility) should be enforced. It found that a large portion of the farming community were ignorant of the powers and provisions of many of the laws affecting their business, and that it would be very convenient if all these laws could be put together and placed at the disposal of the magistrates, so that interested parties might have easy access to the relevant legislation. <sup>(325)</sup>

In 1891 the colony's legislative authorities made yet another attempt to control and extinguish the 'problem' of cattle theft when they introduced a Native Stock Passes Bill (No. 31, 1891) into the House. This was in response to a recommendation made by the Select Committee of 1890 into the theft and destruction of stock that the purchaser of any stock from an African or Indian should be required to obtain from the seller the pass necessary for the driving of such stock by the African or Indian, or otherwise should be held criminally responsible. <sup>(326)</sup> Under the existing law of the colony, Indians were permitted to act in the same manner as whites and could drive their stock without a pass within ten miles of their residence. This privilege, however, did not attach to Africans and the new bill sought to place Indians on the same footing as Africans.

In August 1891 the Native Stock Passes Bill passed into law as Law No. 17 of 1891, "To make certain provisions relative to the purchase of Cattle from Natives and Indians." <sup>(327)</sup> The most important provisions were as follows:-

1) The provisions of Law No. 30 of 1884 were repealed in so far as they related to passes required by Indians.

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<sup>324</sup> . LC, 27 July 1891.

<sup>325</sup> . For further detail on the Report of the Industries Committee, see LC, 27 July 1891.

<sup>326</sup> . LC, 25 June 1891.

<sup>327</sup> . NGG, 4 August 1891.

- 2) The provisions of Sections 4 and 5 of Law No. 10 of 1876, and the provisions of Section 2 of Law No. 46 of 1884 were made applicable to members of the Indian population.
- 3) It became the duty of any person intending to purchase cattle from an African or Indian to demand a pass for such cattle and to satisfy himself as to the genuineness of such a pass. The purchaser was also expected to use all reasonable precautions to satisfy himself that the African or Indian was indeed the lawful owner of the cattle.
- 4) The purchaser would retain the pass accompanying the cattle. If the pass included any other cattle than those just purchased, the buyer was required to furnish to the African or Indian an exact copy of the pass, stating at the foot of both original and copy the number of cattle purchased.
- 5) The law provided for the following penalties: A person who purchased from or sold on behalf of an African or Indian any cattle, contrary to the provisions of Sections 3 and 4 of this law, or a person who failed or refused to furnish a certified copy of the pass as laid down in Section 4, was liable to forfeit any sum not exceeding £20, or in default of payment to imprisonment with or without hard labour for any term not exceeding six months.

In 1892 the Magistracies Commission delivered its third and final report. <sup>(328)</sup> With regard to the subject of stock thefts, the evidence gathered by the Commission revealed that:-

- a) The thefts complained of were almost entirely confined to sheep. Cattle were rarely mentioned and only in one or two instances were thefts of horses alluded to.
- b) Stock farmers admitted that the majority of thefts of sheep were committed by Africans living on their own farms, or on adjoining private lands, and that the Africans living on location lands were not, as a rule, in the habit of stealing their stock.
- c) With rare exceptions, sheep were not taken in large numbers at one time, but were taken in numbers varying from one to three.
- d) Stock farmers attributed a great deal of their losses to Africans returning at night from large beer drinking parties, alleging that the consumption of this beer in large quantities induced a craving for meat.
- e) Indians were not connected with the commission of this crime.
- f) Stock farmers themselves were not blameless in this matter, often failing to exercise sufficient personal supervision. The shepherding of flocks was often "very indifferent and perfunctory, and the counting of the sheep irregular and not sufficiently frequent." <sup>(329)</sup> If the sheep were counted, and any found to be missing, they were immediately, sometimes without any evidence, listed as stolen, and even

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<sup>328</sup>. NGG, 15 March 1892.

<sup>329</sup>. Ibid.

when there was evidence of theft information was seldom given in time to enable cases to be followed up so as to secure convictions.

g) During the shearing season great carelessness was shown in some cases with sheep being clipped without particular attention to the brands upon them. In some instances all the sheep were re-branded with the brand of the person whose sheep were being sheared.

h) Farmers were not diligent enough in stopping Africans who were driving stock to check whether they possessed the necessary pass in terms of the law.

i) Opinions varied as to the utility of fencing as a check on sheep-stealing, but all farmers agreed that it did prevent the theft of horses and cattle, and was a check upon the theft of sheep in large numbers at one time.

The Commission was satisfied that after making due allowance for other causes of loss, large numbers of sheep were lost annually by many stock-farmers by thefts, and that these thefts were chiefly committed by Africans living on the farms or on adjacent private lands.

The Commission considered the sufficiency of the various laws regarding stock stealing, viz. :- Law No. 10 of 1876, Law No. 46 of 1884 and Law No. 44 of 1887. At every seat of magistracy where sheep-farmers resided in the vicinity, the provisions of these laws had been explained to the African chiefs and other Africans present. The Commission believed that the laws, if properly carried out, were fully sufficient. Indeed, it felt that some of the provisions were "exceptionally stringent", the suspected person being deemed guilty unless he could prove his innocence. <sup>(330)</sup> They recommended three additions to the existing laws:-

a) The police should be given power to enter and search African huts without a warrant in cases where the ends of justice might be defeated by delay.

b) The Judge of the Native High Court should be able to transport offenders who were convicted more than once. The Commission thought that law-abiding Africans would "strongly approve" of this action. <sup>(331)</sup>

c) Provision should be made for the punishment of any or all of the inmates of a homestead, or visitors at a homestead, in which or near which the flesh of stolen sheep had been eaten. Under the existing laws only the actual thief was punished.

The Commission considered that the reorganization of the police of the colony under efficient officers could contribute greatly to ending the sheep-stealing which had become so prevalent. But it would also be necessary for stock-owners to be much more prompt in reporting their losses and to give every assistance to the police

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<sup>330</sup>. Ibid.

<sup>331</sup>. Ibid.

which was allegedly "very seldom done".<sup>(332)</sup> The Commission thought it absolutely necessary to have a well organised and equipped force of detectives to put a stop to this crime.

The evidence of both white and African witnesses led the Commission to believe that there was a general feeling that though the punishments which could, under the existing laws, be inflicted for this class of crime, were sufficiently deterrent, often the sentences handed down upon convictions were inadequate considering the gravity of the offence. Under Native Law offences of this kind were generally punished by death and some of the African chiefs allegedly advocated capital punishment as the only remedy. Between January 1890 and September 1891 160 cases were tried by the Native High Court. In only one instance was the property of the person convicted forfeited and in many cases no whipping was inflicted. Under the Law No. 4 of 1868 (the Combined Court set up under this law had been replaced by the Native High Court established in terms of Section 14 of Law No. 10 of 1876) forfeiture was compulsory and in each case of conviction the court had power to sentence to three floggings not exceeding 50 lashes each. The Commission recommended that section 15 of Law No. 10 of 1876, which gave the Governor the final word over sentences, should be repealed.

Africans were very reluctant to give information regarding stock thefts, especially when they knew that in a year or two the thief would be at large again.

The records of the Native High Court revealed that in many cases the thieves were mere boys. The Commission attributed this to the culpable neglect of their parents. For this reason they recommended that the provisions of the Cape Juvenile Offenders Act should be adopted in Natal in order to save many African boys from "a life of crime".<sup>(333)</sup>

The following cases of cattle-stealing and cattle-stabbing were tried before the Native High Court during the period June 1889 to February 1892:-<sup>(334)</sup>

	<u>Cattle Stealing</u>	<u>Cattle Stabbing</u>	<u>Total</u>
1889	8	0	8
1890	59	9	68
1891	74	9	83
1892	22	1	23
	(163)	(19)	(182)

<sup>332</sup> . Ibid.

<sup>333</sup> . Ibid.

<sup>334</sup> . NBB, Vol. 1, 1889-1892.

The above figures clearly reveal that these crimes were both widely prevalent and on the increase during the early 1890s. Sentences handed down by the courts were, as always, intended to deter the commitment of further thefts. For example, four Africans who were found guilty of stealing four sheep in Weenen County were sentenced to two years' hard labour and 20 lashes, 18 months' hard labour, three months and 10 lashes, and 12 months' hard labour respectively. <sup>(335)</sup> Despite the generally severe nature of sentencing, the Lieutenant-Governor was always free to exercise his prerogative of commuting sentences. Under Clause 15 of Law No. 10 of 1876, no sentence passed by the Native High Court could be carried into effect except with the express approval of the Governor. The Governor exercised powers of commutation in respect to sentences passed by the Native High Court and also in respect to all other criminal sentences, by virtue of the prerogative vested in him under the Charter of Natal. But commutation occurred only rarely. Of the 182 cases cited above, only two were commuted by the Lieutenant-Governor; Mandiana, an African man aged 50, who had been sentenced to two years' hard labour and a whipping of 25 lashes, had ten lashes remitted in consequence of his advanced age, while Mamila, a black woman, sentenced to three months' imprisonment with hard labour, had her sentence commuted to a fine of £5 since she was pregnant at the time. <sup>(336)</sup>

Many colonists continued to complain that the punishment imposed on stock thieves was far too lenient and only served as an inducement to further thefts. It was felt that if Africans were made to fear imprisonment more than they did, a marked improvement would result. A farmer who wrote to the Kokstad Advertiser claimed that the chances of being caught stealing were one to fifty, and that if a thief was imprisoned, the pleasant nature of prison life did not serve as any deterrent to future thieving by the same individual and other prospective thieves: "prison life is as one going on a pleasant trip to recruit his health; for his food is of the very best description, consisting of meat every day and vegetables of all kinds, good clothing, bedding, and very light work." <sup>(337)</sup> Instead, he recommended the following punishment: a minimum sentence for stock-stealing of five years' imprisonment, half an hour on the tread mill every morning before breakfast, mealies and soup every day, no meat or vegetables, 25 lashes at the expiration of each year and a further 25 lashes at the end of the term of imprisonment. In addition, he suggested that every judge should be accompanied by a Government photographer in order to take pictures of all stock thieves. This measure, he hoped, would have a deterrent effect

<sup>335</sup>. NM, 14 Sept. 1893.

<sup>336</sup>. NGG, 1 March 1892.

<sup>337</sup>. cited in NM, 23 Sept. 1892.

since Africans were apparently very suspicious about having their photos taken and it would also assist the police in tracking down escaped convicts. He recommended further that all locations should be fenced in and that the Africans themselves should be taxed to help defray the cost of the fencing. Mission stations should also be fenced and inspectors should be appointed to reside at locations. <sup>(338)</sup> These were the age-old tactics of rule by fear and control which had been tried without success since the beginning of the colonial period. Unfortunately for the welfare of all the region's inhabitants, both black and white, the level of white colonial thinking was often too narrow and restrictive to allow lasting and positive solutions to be devised for the many problems which confronted this developing society.

Stock-stealing was still prevalent at the end of 1893 and thefts of a wholesale nature were reportedly becoming common. <sup>(339)</sup> The Nottingham Road Farmers' Association demanded that the Legislative Council devise "speedy and effective measures for the repression of this growing evil" in order to prevent "the development of a vast criminal population in our midst." <sup>(340)</sup> There were still those critics, however, who argued that a great many of the stock 'thefts' were not thefts at all. The R.M. for Weenen was more convinced than ever that Africans were "entirely innocent" of many of the thefts they were charged with. <sup>(341)</sup> He suggested that if farmers losing sheep visited their neighbours' flocks at the time of shearing, they would be more likely to recover their missing stock. He recommended that a law should be passed requiring every flock-owner to give notice to neighbouring flock-owners when he intended to shear his sheep, so that they might attend and pick out of the flock any sheep bearing their particular brand. A wealthy sheep farmer stated that in his experience he considered that 50% of the sheep said to be stolen had only strayed, 30% were appropriated by whites, 17% were lost in holes and spruits, and only about 3% were stolen by Africans. <sup>(342)</sup>

The apparent thieving propensities of Natal's black population were not restricted to cattle and sheep-stealing alone. In Durban the scenario remained as gloomy as in the countryside: "Thefts by natives are increasing daily. The police are overwhelmed with requests to catch thieves, more from their own fellow-servants than from their masters. Seven cases were reported on Thursday. Places outside

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<sup>338</sup> . Ibid.

<sup>339</sup> . NM, 17 July 1893.

<sup>340</sup> . Ibid.

<sup>341</sup> . NBB, Vol. 2, 1892-3.

<sup>342</sup> . Ibid. Report of Commandant of Natal Mounted Police.

the borough are swarmed with lazy, thieving kafirs, who appear to require severe sentences and the lash to check their unlawful acts." <sup>(343)</sup>

In 1892 the Superintendent of Police for the Borough of Durban, Richard Alexander, reported that thefts by Africans were increasing yearly and were far above the average for the other "uncivilised" races living in Natal. Over 1 000 cases of theft had been committed by Africans in the previous five years by an average population of 6 000. Alexander regarded this as "a very serious matter for ourselves as well as their own future." <sup>(344)</sup> He argued that Africans did not fear or care about the punishments inflicted for such offences and that only very stern measures would be able to check the high incidence of African thieving. The greatest difficulty experienced by the police was to identify previous offenders; Africans (as perceived by whites) were so alike in features and adopted so many different names, that unless the police were familiar with their faces, an offender might escape with a few day's imprisonment for perhaps his tenth conviction for theft.

During 1892 516 Africans were arrested for theft in the Borough of Durban, representing 7.3% of the total African population for the borough of 7 059 people. The fact that such a large proportion of Africans was convicted suggested to local white colonists that the existing system of punishment was not acting as a deterrent. The Natal Mercury, indicative as always of local white opinion, joined colonists in calling for stricter punitive measures: "The fact is that to natives who have once got over the shame of imprisonment, the conditions of gaol life are little more repugnant than the life they lead in service. They are well fed, comfortably housed and segregated together. It would be instructive to know whether spare diet, solitary confinement, or a few strokes of the whip, would not do more to prevent thefts by natives than weeks and months of imprisonment." <sup>(345)</sup>

It had always been believed that the majority of petty thieving in the Borough of Durban was carried out by African immigrants from Tongaland and elsewhere, but a report published by the Superintendent of Police in 1893 defused this myth entirely. <sup>(346)</sup> Of the 516 Africans arrested for theft in 1892, he managed to establish the origins of 280 of these thieves. The miscreants, according to their own statements, resided in the following districts:-

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<sup>343</sup> . NM, 6 May 1892.

<sup>344</sup> . MM, Dbn, 1892.

<sup>345</sup> . NM, 30 Jan. 1893.

<sup>346</sup> . NM, 27 Jan. 1893.

Cape Colony	8	
Pondoland	2	
Amatonga	14	
Zululand	18	
Lower Tugela	47	
Stanger	9	
Inanda	26	
Umvoti	8	
Verulam	7	
Greytown	1	
Umlazi	31	
further South	8	
Midland	9	
north of Maritzburg	5	( <sup>347</sup> )

Superintendent Alexander's figures appeared to indicate that 242 out of the 280 thieves (i.e. 86%) who committed thefts in the Borough of Durban were Africans from Natal. Alexander stated that the majority of these thieves were under 25 years of age and that children also appeared in the list of convicts. He claimed that, since most Africans could now write, notes were being sent to store Africans through the post, stating when their friends would be in to take away the plunder. (<sup>348</sup>)

By 1893 the thieving propensities of Natal's African population had become almost legendary and the house-breaking epidemic in Durban continued unabated. (<sup>349</sup>) Superintendent Alexander, who over the years had developed the lowest possible opinion of local blacks, described the state of Africans in graphic detail:

Natives are becoming daily more troublesome. Most of them are no longer the childish, honest, and submissive servants of the past, but lazy, insolent, and fearless thieves, caring little for Gospel and less for gaol. They have found out our good-natured weakness and impose upon it. Their fearless nature has made some of them the most daring thieves we have to deal with. Protected as they are at night by a black skin, universal similarity of features, a strong body, a swift pair of legs, their capture or identification is made almost impossible, whilst their English education gives them the power to write their own permits for a night's leave and orders for grog. (<sup>350</sup>)

Alexander's views were shared by most of Natal's white population. Their perception of blacks was that they were obstacles to the development of white society and, being criminal by nature, were threatening the persons and property of white residents. Many whites, both administrators and colonists, believed that the white

<sup>347</sup>. Ibid. According to the report, these figures should add should add up to 284, but they only total 193.

<sup>348</sup>. The overwhelming majority of the African population was still illiterate at this time.

<sup>349</sup>. NM, 28 Nov. 1893.

<sup>350</sup>. MM, Dbn, 1893.

man had been too kind towards the indigenous African people he had found in the region and that this leniency had brought out the worst qualities in Africans, causing them to lose respect for whites and to commit crimes in great abundance.

During the early 1890s Maritzburg kept pace with Durban in experiencing a spate of burglaries of both shops and dwelling houses. The Natal Witness reported that house-breaking in the City seemed to be regarded by the black portion of the community as "a pleasant form of diversion in the evenings." <sup>(351)</sup> Africans were apparently shrewd enough to realise that the police tended to frequent only the central thoroughfares of the town and so had chosen streets such as Loop Street and Burger Street, which were well removed from the police station, as "an excellent field for burglarious enterprises." <sup>(352)</sup> The police believed that a well organised gang of thieves was at work in Maritzburg. Under the headline of "Another Burglary", the Natal Witness informed its readers that "The City is rapidly gaining an unenviable notoriety for being the haunt of a gang of burglars, who seem to be having quite a good time of it, and not until the miscreants are safely lodged within the four walls of the Station House, will burgesses feel secure against attack." <sup>(353)</sup> This was not the first time in the period under review that Natal's white residents felt themselves to be threatened by the presence of blacks in their midst. Whether it was Africans or Indians, the behaviour of these 'visitors' to 'white' towns was often regarded by the colonists as being undesirable or threatening, and merely served to reinforce their generally negative preconceptions of foreign peoples.

Headlines such as "The Housebreaking Pest", "More Daring Thefts" and "Thieving by Natives" helped to cultivate further fear in the hearts of whites living in Maritzburg. Once again the police were attacked for allegedly failing to carry out their duties. The constable on the beat always appeared to be in the wrong place at the right time and was regarded by some cynics as only an "imaginary being". <sup>(354)</sup> In defence of the police, however, it must be said that the small police force was virtually incapable of dealing with the high incidence of crime in the town. Petty larceny by Africans was almost a daily occurrence and no sooner had the police removed "one notorious burglar from our midst than another springs into existence." <sup>(355)</sup> The residents of Maritzburg called on the Corporation to provide ratepayers with more efficient police protection from the "alarming epidemic of thieving by natives." <sup>(356)</sup> To an extent, these residents, so critical of the police and ever

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<sup>351</sup> . NW, 14 May 1891.

<sup>352</sup> . Ibid.

<sup>353</sup> . NW, 7 Jan. 1891.

<sup>354</sup> . NW, 24 March 1891.

<sup>355</sup> . NW, 22 June 1892.

<sup>356</sup> . NW, 13 Dec. 1892.

suspicious of their black brethren, were partly responsible for their own losses in that they frequently forgot or refused to secure their business premises and homes at night. During a single fourteen day period, the Maritzburg police found 23 premises left unsecured for the night. <sup>(357)</sup>

Numerous complaints were made by white residents living in the vicinity of the City Tennis Courts in Pietermaritz Street about the so-called "tennis-club kafirs". These Africans lived in a "wretched shanty" at the entrance to the club courts, a dwelling which whites regarded as an eye-sore. They were said to be not only a nuisance to the neighbourhood, but prone to stealing anything they could lay their hands on. It was alleged that these Africans prowled nightly about the premises of the inhabitants in the neighbourhood "with a view to appropriating anything their thievish fingers can touch." <sup>(358)</sup> The police, who apparently knew about this "tumble-down den of iniquity", had not taken any steps to arrest any of its occupants. <sup>(359)</sup> Such incidents merely served to further denigrate the image of the police among the white community.

The usual complaints were made that magistrates were only contributing to the increase in thefts and burglaries by their generally lenient approach to sentencing. Magistrates were accused of imposing severe lectures and light sentences, instead of severe sentences and light lectures. It was feared that unless strict punishments were meted out to criminals with a propensity for the property of others, these crimes would increase and even worse crimes would spring up in the future. Despite the grievance of white residents that magistrates were too lenient, this allegation does not appear to hold much water when one analyses some of the penalties handed down by the courts. For example, Jim and his accomplice Jan de Lange, a coloured man, who pleaded guilty to house-breaking, stealing tools and the sum of 1s.6d., were sentenced to five years' and three years' hard labour respectively. <sup>(360)</sup> This cannot be regarded as "soft" sentencing.

By 1893 the burglary epidemic in Maritzburg showed no signs of abating and calls were being made for drastic measures to protect citizens against burglars of all races. Day after day fresh cases were reported to the police and there were undoubtedly many other victims who failed to make their losses known to the authorities. <sup>(361)</sup> Suspicious characters of the "loafer genus" were reported to be at large in the City and complaints continued to be made of "kafirs of the criminal class"

<sup>357</sup> . NW, 2 March 1892.

<sup>358</sup> . NW, 16 August 1893.

<sup>359</sup> . Ibid.

<sup>360</sup> . NW, 7 Nov. 1892.

<sup>361</sup> . NW, 27 Nov. 1893.

being in the streets after the curfew had been rung and lurking under verandahs and in back premises. <sup>(362)</sup> It appeared that the "kafir pest" would haunt whites forever and deprive them of the previously tranquil and safe existence which they had enjoyed in the early colonial period.

It is important to examine, briefly, the state of the economy during the early 1890s in order to determine whether this had any effect on the extent of crimes committed against property. In 1889 the country had been hit by a gold crisis, which included an intense speculative collapse early in 1889, a severe banking and financial crisis in 1889-90 and an economic recession towards the middle of 1890. This was followed by a depression during the years 1890-2. During 1892 an economic revival began and prosperity returned to the colony from 1893-5.

The following table reflects the number of convictions for thefts committed by whites, Indians and Africans in the Borough of Durban during the period 1890-1894:- <sup>(363)</sup>

	<u>Whites</u>	<u>Indians</u>	<u>Africans</u>	<u>Total</u>
1890	39	97	194	330
1891	43	162	250	455
1892	44	184	288	516
1893	28	190	276	494
1894	52	204	258	514

There appears to be a direct correlation between economic hard times and the number of thefts committed in Durban. Between 1890 and 1892 the number of thefts increased by 56%, a predictable scenario given the depressed state of the economy at the time. As the economy began to revive from 1892 onwards, however, the number of thefts began to level out. The principal cause of property crimes is the adverse material circumstances of the perpetrator. Therefore, during periods of economic recession and depression, there is usually a concomitant increase in the incidence of crimes against property. People, who perhaps lack a degree of social morality, and who come under economic pressure, turn to crime in the hope that it will help to relieve that pressure. In Durban it was the African population who were responsible for the majority (between 50 and 55% of the total) of convictions for theft. The Indian population also appeared to be succumbing to the ravages of civilization and between 1890 and 1894 the percentage of thefts committed by Indians increased every year (1890: 29%; 1894: 40%). White theft was not on the increase and contributed between six and twelve per cent of the total thefts

<sup>362</sup> . NW, 30 Nov. 1893.

<sup>363</sup> . MM, Dbn, 1890-1894.

committed in the Borough of Durban. These figures appeared to confirm what whites had always 'known' about their black brethren: that Africans, who were generally honest by nature, were corrupted by the town life and became daring thieves, while Indians were considered to be naturally sly and dishonest. The lofty morality of the white race appeared to be intact, although there was that worrying group of lowly characters who were threatening the integrity of the Anglo-Saxon culture. By 1893 cases of theft (503) ranked as the fourth most important crime in the Borough of Durban, behind drunkenness (2 771 cases), vagrancy (896 cases) and breaches of the peace (837 cases).

It is necessary to examine more closely the reasons why Africans were responsible for more than half of the convictions for theft in Durban during the early 1890s. The population figures for the Borough of Durban throw some light on this phenomenon:-<sup>(364)</sup>

	<u>Whites</u>	<u>Indians</u>	<u>Africans</u>	<u>Total</u>
1890	11 530	5 792	6 402	23 724
1891	12 637	6 486	6 389	25 512
1892	13 293	7 140	7 059	27 492
1893	12 772	5 917	6 318	25 007

It is interesting to observe that during the period of depression (1890-2), the borough's population actually increased by 16%. Since employment opportunities must have been relatively scarce, it is difficult to understand why an increasing number of whites, Indians and Africans would have gravitated to Durban. Many people who were suffering economic hardship in the countryside might have been attracted by the 'bright lights' of the town, believing that it offered the chance of a better deal. The increase in the borough's African population suggests that the African agricultural sector was beginning to succumb to a variety of pressures and that Africans were seeking new ways of satisfying their monetary requirements.<sup>(365)</sup>

When one considers the percentage of the total population which each race group constituted, and the percentage of the total thefts perpetrated by each group, the following evidence comes to light:-<sup>(366)</sup>

<sup>364</sup>. MM, Dbn, 1890-1893.

<sup>365</sup>. The number of Africans in Durban usually decreased during a time of depression. The decrease among all the borough's ethnic groups in 1893, a period of economic revival, is also unusual.

<sup>366</sup>. MM, Dbn, 1890-1893.

	<u>Whites</u>		<u>Indians</u>		<u>Africans</u>	
	<u>% Pop.</u>	<u>% Thefts</u>	<u>% Pop.</u>	<u>% Thefts</u>	<u>% Pop.</u>	<u>% Thefts</u>
1890-1	31	9	23	36	46	55
1891-2	27	8	34	36	38	56
1892-3	28	6	30	38	42	56

The above figures indicate that while Africans were responsible for the majority of convictions for theft in the Borough of Durban, they also constituted a majority of the population. Both the Indian and the African populations, however, committed more than their 'fair share' of thefts. In comparison, the borough's white residents appeared to be relatively blameless, committing a mere 6-9% of all thefts. This phenomenon can be explained by examining the changing nature of African society and the increasing influence of white society on the region's black peoples.

African peasant farming had evolved mainly among African communities living in the immediate vicinity of white towns, since the transport of produce from outlying areas to white markets posed a serious problem. As the majority of Africans were living in the less developed parts of the colony during the 1840s, there was little or no market for surplus crops. Many of these rural Africans were therefore forced to pay the Hut Tax in the form of cattle or to leave home for a period in order to seek work and earn wages. But since the culture of the Nguni-speaking peoples dictated that the number of cattle indicated the extent of the owner's wealth, Africans were extremely reluctant to give up their primary source of wealth. Africans in the colony's outlying districts tended therefore to take up other occupations or to work for low wages, as labourers, to pay the Hut Tax.

The absence of men from their homes and their families even for a fairly short period must have had a considerable adverse influence on tribal and family life. Moreover, the close contact with white society and with town conditions contributed to the growth of wants hitherto unheard of, and hence to a tendency to work for a longer period than was necessary to earn sufficient money to pay the Hut Tax. The absence of men for various periods from the direct control of their chiefs and the observation of European modes of life inevitably contributed to the partial disintegration of tribal life.<sup>(367)</sup> Africans developed material needs and wants which were alien to their culture, needs which could only be satisfied by access to a monetary income. While African peasant farmers (particularly those residing near white towns) were able to resist the demands/attractions of white employers for several decades, they too began to succumb to a variety of pressures from the 1880s onwards.

<sup>367</sup>. N. Ramdhani, *op. cit.*, p. 49.

The period 1886-1899 witnessed the beginning of years of significant change and hardship for Natal's African inhabitants, years which signified the end of an era of relative prosperity and economic independence. During this period the region's black people were radically affected by the mining revolution, the granting of responsible government to Natal and environmental calamities.

Natal's economy, prior to the period of mineral discoveries, was insignificant and offered limited opportunities in the fields of agriculture and trade. Trade and railway revenue were in a state of severe depression. The discovery of the Witwatersrand goldfields in 1886, however, marked the inauguration of a new era in the economic history of South Africa as investment flowed into the country's new mining industry. Commercial activity increased and the Cape and Natal ports experienced a significant boost in traffic and customs revenue because of their vital role as forwarding agencies for the imported products required by the mining industry and the burgeoning population of Johannesburg. <sup>(368)</sup>

The opening up of the Rand signified a turning-point in the fortunes of the Natal Government Railways which saw an increase in revenue which realised the amount of £257 877 as compared to £108 878 for 1886. While revenue increased by 73 per cent, gross expenditure only went up by 26 per cent. There was a substantial increase in every class of traffic and an extended demand for transport from Ladysmith to places beyond. In addition, large numbers of Natal colonists desired to travel to the goldfields in search of better prospects, thus increasing passenger traffic. In 1888 the railways made a net profit, the first since 1881, estimated at £26 000. <sup>(369)</sup> Due to the augmented demands for all types of goods required for the new towns established on the goldfields, the import trade revived considerably. The new Taffiff Law of 1886 provided a further boost to local trade since it permitted wines, spirits, tobacco, tea and cigars to pass through Natal to countries in the interior at reduced rates. An increase of 94 per cent was reported in items such as blankets and "non-enumerated" goods. Although there was a decrease in exports such as grain, tobacco, sugar and rum because of the greater demands for local consumption and for export to the Witwatersrand, the export of "non-colonial" goods increased. <sup>(370)</sup> The mineral discoveries had thus brought about a dramatic improvement in the economy of Natal as the following table illustrates:- <sup>(371)</sup>

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<sup>368</sup> . N. Ramdhani, op. cit., pp. 121-3.

<sup>369</sup> . NBB, Vol. 2, 1887, Report of General Manager of Railways.

<sup>370</sup> . NBB, Vol. 2, 1887, Report of Collector of Customs.

<sup>371</sup> . Ibid.

	<u>Customs</u>	<u>Land Sales</u>	(\$)	<u>Total Revenue</u>	(\$)
1886	140 402	15 772		600 178	
1887	231 412	36 767		816 816	
1888	290 089	26 550		1130 614	
1889	369 461	34 613		1327 105	
1890	336 821	17 814		1422 688	
1890-1	273 915	44 216		1318 769	
1891-2	301 180	46 499		1392 455	
1892-3	216 241	43 951		1069 678	

The emergence of the mining industries of the Transvaal had a significant impact on all sections of the population of Natal which underwent a rapid transformation. In general, white commercial farmers benefitted from these developments, while the economic condition of Natal's African population began to deteriorate rapidly. One of James Stuart's informants, Mxaba, outlined the hardships experienced by them in the period following the discoveries:

Look at the Natives of Natal...they are squatters on farms, they have to pay rents and taxes. If they cannot pay rent they are ordered to quit, and do quit. They are ordered off farms for not paying rent, have difficulty in finding another home, and when they get there, no consideration is shown by the government, but they must needs [sic] pay Hut Tax as before...Possibly a man has holes full of corn or mealies; all this produce he is obliged to dispose of for next to nothing and yet, when he, after a lot of trouble, finds a new home, he is obliged to buy at the highest market prices. <sup>(372)</sup>

The further commercialization of white agriculture and the granting of responsible government to Natal in 1893 contributed to the onset of economic decline among African peasant communities. The development of the mining industry provided new markets for the agricultural produce of Natal and there was a corresponding increase in white agricultural activity by the mid-1880s and 1890s. In 1875 the total area under cultivation amounted to 82 000 acres and the white farming community numbered about 2 000 inhabitants. By 1890 the number of white farmers had increased to around 3 000 and the area under cultivation had risen to 85 861 acres. By the year 1895 the combined agricultural output of the colonists had risen dramatically to 129 925 tons. <sup>(373)</sup> During this period white agriculture was gradually transformed into a more commercialized and specialized industry. Besides supplying the local Natal market (estimated at 500 000 in 1891) with certain foodstuffs, the colony's farmers also began to sell their products to the residents of the Witwatersrand. Bundy notes that "Meat, dairy produce, maize and vegetables

<sup>372</sup>. C. Webb and J. Wright (eds.), op. cit., Vol. 1, pp. 250-1, Mxaba to James Stuart.

<sup>373</sup>. C.J. Bundy, The Rise and Fall of the South African Peasantry, p. 184.

were all put on a commercial footing in response to the opportunities particularly in the agricultural zone along the main rail line north, past Lions River, Estcourt, Klip River and Newcastle." <sup>(374)</sup>

The granting of responsible government to Natal's white colonists in 1893 meant that for the first time since annexation in 1843, the region's white population secured the right to elect a government that would represent their own interests. The colonists had long been highly critical of the government's policy towards Africans, believing that it aggravated the labour problem rather than alleviating it. Since the whites now acquired control of the destinies of the black population, they inevitably adopted a Native Policy designed to coerce Africans to enter the labour force. The political economy of Natal moved beyond the guidance and direction of those "local and British interests with a stake in the continued capacity of Natal Africans to earn an independent income", -the rentiers - and into the hands of "the burgeoning class of commercial farmers and its allies." <sup>(375)</sup>

The commercialization of agriculture and the granting of responsible government interacted to assist in the deterioration of the African farming community as the wielders of political power implemented policies aimed at squeezing Africans off the land so that they could obtain cheap labour and diminish the capacity of Africans to compete with white commercial farmers in the sale of agricultural produce. By 1890 the financial demands on Africans - hut taxes and higher rents in particular - were so great that they were becoming increasingly dependent on sources of income other than those derived from farming and trade.

After the discovery of gold on the Witwatersrand in 1886, white Natal farmers and the Transvaal mining industry competed for a supply of cheap, unskilled labour. Both parties found that they could not attract sufficient labour while peasants still had access to lands and could produce enough for their cash requirements. Confronted by the alliance of white farmers and mine owners, African peasants began to lose their much valued independence as they were forced off white land or forced into the position of labourers on the farms. Africans were no longer able to exercise as great a choice, as they had done in the past, with regard to the different types of land available for occupation. The granting of responsible government resulted in a rise in the value of land causing Crown land to be "snapped at rising prices and private landowners to sell their properties to commercial farmers." <sup>(376)</sup> Many magistrates reported in the 1880s that nearly all the Crown lands in their

<sup>374</sup>. Ibid.

<sup>375</sup>. H. Slater, *op. cit.*, pp. 272, 276.

<sup>376</sup>. C.J. Bundy, The Rise and Fall of the South African Peasantry, p. 184.

divisions were sold and a decrease was observed under the head of Squatters Rent.  
(<sup>377</sup>)

Agriculture among Natal's white farmer community began to move away from absentee proprietorship towards the more intensive commercial use of agricultural land. African peasants who were evicted from Crown and private lands which had been sold, were unable to move to the locations because of the acute problem of overcrowding. Those who enjoyed access to the remaining available land were confronted by exorbitant rents. African people experienced great difficulties in finding land to reside on and it was proving expensive to pursue their original occupations as peasant farmers instead of as wage labourers. Mxaba, a James Stuart informant, explained the importance of land to the African: "He who has no land, he said, is like one laden with a heavy burden, hence it is that there can be no increase of wealth whilst we are in debt. Poverty arises out of having no fixed abode." (<sup>378</sup>) As land formed the foundations of African wealth and prosperity, and since this sector of the population was gradually being restricted in land occupation by state instituted pressure, many Africans were unable to successfully retain their independence and pay their taxes by the sales of accumulated surplus only. (<sup>379</sup>)

During the period after the mineral discoveries, the commercialization of white agriculture with its resultant consequences of high rents, overcrowding and evictions served to increase the monetary obligations of the Africans. The white residents of Natal appeared to be totally unconcerned about the distressing state of the local African population. While white agriculture received generous subsidies and grants, tax relief and advantageous rail rates, the African peasant population continued its downward spiral. Richmond farmer, J.W. McKenzie, outlined the poor condition of African farmers:

The natives earning power is not sufficient to enable him to pay his way...to pay his debts and his taxes. A man cannot live on nothing. When a man had cattle and land, like they had years ago, he could sell a beast and pay his rent; now they have no cattle and the land has practically run out; their cultivation has got worse and worse - where they used to grow mielies years ago, you cannot get a sack now...he is worse off now because he has no cattle, and the land he cultivates does not produce nearly as much as it used to do, therefore his position is worse than it was before, and it is getting worse. (<sup>380</sup>)

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- <sup>377</sup> . NBB, Vol. 2, 1891, Annual Reports of Resident Magistrates.  
<sup>378</sup> . C. Webb and J. Wright (eds.), op. cit., p. 250, Mxaba to Stuart.  
<sup>379</sup> . N. Ramdhani, op. cit., p. 130.  
<sup>380</sup> . C.J. Bundy, The Rise and Fall of the South African Peasantry, p. 187.

Another source of pressure encountered by African peasants was the competition presented by the Indian peasant farmers of Natal. Once they had completed their period of indenture, many Indians remained in the colony where they became integrated into the economy as labourers, artisans, shopkeepers, traders and agriculturists. Many pursued independent occupations as market gardeners in the vicinity of towns or as peasant farmers in other parts of the colony. <sup>(381)</sup> Africans regarded these Indians as alien intruders and complained about being evicted from land which Indians claimed to have purchased. <sup>(382)</sup> Indians were so successful that they had "captured practically the whole of the fruit and vegetable trade in the peri-urban areas of Durban, Pietermaritzburg and coastal areas of Natal." <sup>(383)</sup> In areas such as Inanda and Alexandra they became the main producers of maize and tobacco crops. Unlike the Africans, Indians enjoyed the decided advantage of unlimited access to land. The appearance of Indian agriculturists constituted yet another source of competition for resources and markets.

African farmers were confronted by a number of other obstacles. The reports of Resident Magistrates drew attention to the poor agricultural methods of many African farmers and their agricultural system. <sup>(384)</sup> Between 1880 and 1890, when African farmers were increasing the amount of land under cultivation, the prices fetched for various types of produce were actually declining. <sup>(385)</sup> Drought and livestock diseases from about 1890 onwards compounded the problems of African farmers. Considering the adverse conditions experienced in the period 1887-1895, it is not surprising that the African community began to evade the payment of Hut Taxes. By the 1890s many Africans found it increasingly difficult to exist independently without entering wage labour. But they did not rush to enter the services of the white inhabitants of Natal. Instead, they often proceeded to the Witwatersrand goldfields where the higher wages on offer enabled them to earn sufficient money to pay the high rents and Hut Taxes. Natal's white farmers continued to complain about a labour shortage.

The movement of Africans to the goldfields contributed to the social ills of the northern Nguni society of Natal. Resident Magistrates throughout the colony complained about the decline in the moral character of the African population. The

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<sup>381</sup>. Ibid, p. 182.

<sup>382</sup>. C. Webb and J. Wright (eds.), op. cit., p. 147.

<sup>383</sup>. C.J. Bundy, The Rise and Fall of the South African Peasantry, p. 182.

<sup>384</sup>. NBB, Vol. 2, 1888-1890, Resident Magistrates' Reports.

<sup>385</sup>. NBB, Vol. 2, 1880-1890. Return of Agricultural Produce and Average Market Value.

Magistrate of Umsinga complained that the Africans "have not improved socially and morally since going to Johannesburg", while the Magistrate of Lions River reported that their "social and moral conditions were not good...[they showed] laxity in moral character." Evidence for the existence of such problems could be observed in the increase of cases of indecent assault, bribery and abduction. <sup>(386)</sup> Apart from being influenced by crime in Johannesburg, Africans also began to emulate the vices of the white man, notably in the consumption of liquor and the indulgence in prostitution and loose living. Many Africans returned to Natal with diseases such as syphilis, influenza and measles. By 1895 these ailments had reached epidemic proportions. <sup>(387)</sup> Those who returned with large sums of money often squandered it on *isishimiyana* drinking which contributed further to the demoralisation of local Africans. Periods of idleness often followed heavy drinking, which meant that Africans could not pay their debts and taxes. Homesteads were no longer well maintained, presenting a picture of delapidation. Closer contact with western material values resulted in the growth of wants which were alien to the Nguni culture. The net result was that many Africans returned from the mines in a poorer state than before they left their homes in Natal. <sup>(388)</sup>

Thousands of African men who left to work on the goldfields neglected to send money home to their wives who were eking out a dismal existence in the reserves. Many of these women resorted to prostitution as a means of earning the money required to pay the arrears in rents and taxes. There was a consequent increase in the number of divorces between couples married under Christian rites. Eventually tribalism itself began to disintegrate as chiefs continued to lose power over their people and parents began to lose control over their children, especially in cases of unmarried sons who returned with little respect for tribal or parental authority.

Poverty, in the European sense, was a phenomenon which was alien to the Zulu culture. When interviewed by James Stuart, John Kumalo said that "poverty in Zululand was gently covered as with a cloak by the chief." <sup>(389)</sup> Mxaba described how this was achieved. Under the old Zulu regime a poor man would have cattle given to him to look after by his chief. The man would produce small gourds of cooked butter, which he bartered for goats. When he had accumulated ten goats, he would purchase a cow which became his own personal property. In time his small

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<sup>386</sup>. Blue Book for Native Affairs, 1895, Annual Reports of Magistrates of Umsinga and Lions River. cited in N. Ramdhani, *op. cit.*, p. 139.

<sup>387</sup>. Blue Book for Native Affairs, 1894-5, Annual Reports of Magistrates. cited in N. Ramdhani, *Ibid.*

<sup>388</sup>. N. Ramdhani, *op. cit.*, pp. 139-140.

<sup>389</sup>. C. Webb and J. Wright, *op. cit.*, p. 250.

beginnings would increase; he would ultimately get sufficient cattle to *lobola* a wife with and would have children, thus increasing his wealth still further when his daughters married and brought him *lobola*. He would then found homesteads, becoming still more prosperous and affluent. The chiefs looked after their people, giving assistance where they felt it was required, and on that account "there was in Zululand no class known as the poor." <sup>(390)</sup> Contact with white society, however, meant an introduction to increasing poverty and deprivation. Particularly after the mid-1880s, as Africans began to lose access to land, poverty became an everyday phenomenon. This necessitated greater involvement in the white money economy in order to meet their tax obligations and their everyday needs, which in turn led to the creation of new material wants. Poverty was the primary motivation behind the high incidence of crimes against property committed by Natal's African population.

Another respondent to James Stuart, Mabaso, claimed that Africans were reduced to poverty by their own tastes, which contact with the European culture had nurtured: "A man is taught to take to clothing; this creates for him a certain standard of living up to which he, from fear of being ridiculed by others, strives to live. Thus it is due to the advent of Europeans that there is this tendency to spend one's means merely for the sake of being like others; they bring all manner of goods which increase the desire to spend." <sup>(391)</sup> John Kumalo referred to clothing and other things made by whites as *ngwaqubulungu*, meaning "a striving to be like a white man." <sup>(392)</sup> Even the 'rawest' African in Natal was in the habit of purchasing European goods; every man, for instance, was required to have a coat and a pair of trousers when he entered a town. This induction into the European culture not only created poverty, but a new reliance on material possessions which increased the incidence of property crimes compared to the number committed in traditional, pre-colonial Zulu society.

Despite the increasing pressures that Africans were subjected to - the commercialization of white farmers, land shortages, high rents, taxes, droughts and cattle diseases - most magistrates seemed to agree that they were "generally well behaved, quiet and orderly." <sup>(393)</sup> In 1892 the Magistrate of Ixopo reported that Africans paid their taxes cheerfully: "it is very pleasing to note that they pay their taxes with a remarkably good temper every year. They march up in large bodies, each tribe with it's chief at it's head, singing, and on reaching the Magistrate, they form in a line and salute him." The Magistrate of Umsinga reported that "they are loyal subjects, appreciate British rule and pay taxes promptly. With such a large

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<sup>390</sup>. Ibid.

<sup>391</sup>. C. Webb and J. Wright, op. cit., p. 251.

<sup>392</sup>. Ibid.

<sup>393</sup>. NBB, Vol. 2, 1890-1893, Annual Reports of Magistrates.

population and with so few native police to perform their duty, they are generally a well-conducted people." <sup>(394)</sup>

As Africans became more urbanised, due to the destruction of peasant farming and environmental factors, so they became progressively absorbed into the white Anglo-Saxon culture. They began to experience both the good and the bad aspects of that culture. The number of property crimes committed by Africans increased greatly as they came to live within white society to an increasing extent. Although property crimes were quite rare in traditional Zulu society, those who did commit such crimes were dealt with extremely harshly; the penalty of death was not uncommon for miscreants who stole cattle or committed a petty theft. There is no doubt that the punishments for property crimes in Zulu society were substantially harsher than the penalties for similar crimes in white society. It is possible that the relative leniency of white law encouraged Africans to commit thefts which they would have thought twice about in their own traditional society. It is no doubt also true to say that the opportunities for committing property crimes were that much greater in white society since that society was more materially orientated than Nguni society and Africans in white towns were no longer shackled by the authority of their chiefs.

The colonial administration, being dependent for revenue on limited sources, found the Hut Tax to be a "convenient, ingenious and economical" method of collecting a third of the colony's total revenue. <sup>(395)</sup> Ramdhani argues that the tax was "part of an ultimate plan to impose a colonial system of rule which would establish a western capitalist ethos on African society." <sup>(396)</sup> The African response to this new system was characterized by an economic adaptation which prompted an increase in agricultural production. There was a notable rise in maize production, as well as in stock-keeping, to meet the new demands and wants of the colonial system. These demands included the payment of the Hut Tax, customs duties and the acquisition of goods such as spirits, blankets, ploughs, wagons and clothes. As Natal's African population became more westernized and as increasing numbers moved to the towns from the mid-1880s onwards, these people began to acquire not only the civilization, but also the vices which the white man had brought to the region from Europe. The fact that Africans constituted the majority of Durban's population meant that it was likely that they would also commit the majority of thefts; economic pressures and freedom from parental and tribal guidance made this likelihood a certainty.

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<sup>394</sup>. NBB, Vol. 2, 1890, Annual Report of Magistrate of Umsinga.

<sup>395</sup>. N. Ramdhani, op. cit., p. 62.

<sup>396</sup>. Ibid.

Finally, it is important to consider crimes against cattle and property crimes generally in relation to the economic climate prevalent in Natal during the early 1890s. The following table illustrates the number of convictions for cases of stealing, killing or wounding cattle in the Colony of Natal for the period 1890-1894:-<sup>(397)</sup>

	<u>Convicted</u>	<u>Acquitted</u>	<u>Total</u>
1890-1	93	18	111
1891-2	102	22	124
1892-3	132	27	159
1893-4	116	33	149

Cattle crimes for this period appear to follow the economic cycle quite closely.<sup>(398)</sup> During 1890-2, a period of depression, convictions increased. As the economy began to revive, however, convictions continued to increase, before declining when prosperity returned from 1893 onwards. As in previous decades, the vast majority of cattle crimes was committed by the colony's African population. Increased economic pressures during a period of depression probably drove many rural Africans to indulge in cattle thefts, whereas during more prosperous times there was no need to steal the property of others. Considering the fact that Natal's African rural cultivators had been subjected to increasing pressures since the mid-1880s, the increase in cattle crimes during the early 1890s is predictable.

The following table illustrates the number of convictions for property crimes committed in the Colony of Natal during the period 1888-1893:-<sup>(399)</sup>

	<u>Total Property Offences Reported to Magistrates</u>	<u>Summary Convictions</u>	<u>Convictions in Superior Courts</u>	<u>Total Convictions</u>
1888	1 508	902	144	1 046
1889	1 639	1 077	87	1 164
1890-1	1 875	1 186	142	1 328
1891-2	1 838	1 109	95	1 204
1892-3	2 239	1 226	165	1 389

The incidence of crimes against property had remained relatively constant throughout the greater part of the 1880s (1884: 1129 convictions; 1889: 1164

<sup>397</sup>. NBB, Vol. 1, 1890-4.

<sup>398</sup>. The Attorney-General drew attention to the weaknesses of criminal statistics: "in regard to a crime [stock thefts] undoubtedly so prevalent and so frequently undetected, it is probable that the criminal records do not furnish data from which any reliable inferences can be drawn." NBB, Vol. 1, 1891-2.

<sup>399</sup>. NBB, Vol. 1, 1888-1893.

convictions). From about 1890, however, there was a marked increase in the number of convictions for this type of crime. Not only did the economic depression of 1890-2 contribute towards this phenomenon, but the progressive underdevelopment of Natal's African farming community began to force many Africans to abandon their agricultural pursuits and move to the towns where they offered their services to their white 'masters' as cheap, unskilled labour. The population figures for the Borough of Durban illustrate this trend:- <sup>(400)</sup>

African Population of the Borough of Durban

1863	1 743
1870	1 766
1875	2 286
1880	3 817
1885	4 521
1890	6 402
1893	6 318

The above figures indicate that from about 1870 onwards there was a steady influx of Africans (mainly men) into Durban. The rate of influx was greatest between 1885 and 1890, a clear indication that the African farming community was coming under pressure and that Africans were beginning to find it necessary to become more involved in the 'white' money economy to satisfy their monetary requirements. <sup>(401)</sup> As an increasing number of Africans came to live and work in Durban, so they perpetrated an increasing number of crimes against the property of others.

The rapid urbanisation of these people led to greater contact with the dominant culture of the towns, the white Anglo-Saxon culture. Africans began to lose their rural roots, and removed from all the restrictions of tribal life, soon became attracted to many of the material (and other) trappings of white society. Since most Africans were materially inferior to the white man, and given their new-found freedom and lack of education, the temptation to commit thefts must have been overwhelming on occasions. Low class Indians and Africans committed the majority of property offences in the Colony of Natal. While many of these people may have been economically disadvantaged and deprived, whites merely looked at the symptoms of that condition and concluded that Indians in general and town Africans in particular, were dishonest and lacking in integrity. There was no attempt to address the root cause of property offences.

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<sup>400</sup>. MM, Dbn, 1863-1893.

<sup>401</sup>. Surprisingly, this growth did not continue during the early 1890s.

## CHAPTER FOUR

### LIQUOR AND THE LAW

In this chapter crimes committed against the liquor laws of the colony will be examined in the light of the broader aims of this study as stated in the introduction. The focus is on drunkenness in Durban, but references are also made to drunkenness in other towns, Pietermaritzburg in particular, and to rural drunkenness in order to construct a more holistic picture of liquor offences in the colony. This study examines African drunkenness in particular, but as a point of comparison also deals with white and Indian drunkenness. Each decade will be considered as an entity and trends will be examined at the end of each decade. Legislation relating to liquor and drunkenness will be considered in detail since this represents one of the principal mechanisms used by the settlers in their attempts to control the colony's black population. A major theme is the influence which contact with the white settler community and the introduction of new, European liquors had on drunkenness among the indigenous African population. The activities and influence of the temperance movement will also be considered briefly. As with property offences, an attempt will be made to distinguish any correlation between liquor offences and the prevailing state of the economy.

As a point of departure, it is important to consider the nature and role of drink in pre-colonial Zulu society. Traditional Zulu beer (*Utshwala*) is both a pleasant drink and a highly nourishing food and had an important place in the diet of Natal's African people. <sup>(1)</sup> The beer was made from four different types of grain, namely Indian corn, Guinea corn or *amabele*, millet and *luphoko*. <sup>(2)</sup> A small part of the grain was first malted, the remainder being ground with water between stones. It was then put in boilers with a proportionate quantity of water and allowed to simmer. Thereupon it was put into coolers, and when cold the malted corn was ground dry, and mixed with it. This fermentation process lasted for eight hours. It was then sifted through a sieve made from wild date leaf plaited like leghorn hats, after which it was left to stand for an hour during which time it regained its fermentation. The beer had to be

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<sup>1</sup>. Kidd describes Zulu beer as "a thin, dirty, nauseous, watery gruel". Thousands of Zulus would disagree with him. D. Kidd, *op. cit.*, p. 327.

<sup>2</sup>. *Amabele* was the principal crop of the Zulus, only one crop being produced during the season. The grain *inqalothi* was stronger than *luphoko* and was used principally for making beer.

drunk within a day or two to prevent it becoming sour. According to Fynn, the best beer was made from millet, and *luphoko*, being "a most pleasant and wholesome beverage". In his opinion, neither was fit to drink after two days by a European, but the Africans were accustomed to use it "as long as the name beer may be applied to it." <sup>(3)</sup> There was also a kind of mild beer called *igwele* sometimes prepared by the women for lack of something better. A Zulu man would "scarcely look" at such beer. It was made by pouring boiling water on a mixture of crushed maize (or even *mabele*) and any kind of malt, which was allowed to stand until fermentation set in, whereupon it was strained and drunk. Often it was prepared entirely from malt, producing better results.

In addition to its economic value as a food, beer was also of great social importance. No ceremony was complete unless there was beer. A good illustration of the social value of beer was its use as a means of effecting reconciliation. When two members of a family or village had had a serious dispute, friendship was reestablished by the ceremony known as *ukuthelelana amanzi*, meaning "to pour water for each other." <sup>(4)</sup>

Giving evidence before the Cape Government Commission on Native Laws and Customs (1883), the Zulu king Cetshwayo stated that there was no law preventing people from drinking or selling beer made in Zulu country. <sup>(5)</sup> He regarded African beer as "the food of the Zulus; they drink it as the English coffee." They were allowed to drink as much as they pleased, "as much as the English drink coffee." <sup>(6)</sup> While some became drunk if they imbibed too much, a man was not punished unless he did something wrong when he was drunk. Punishment for "drunk and disorderly" conduct was very much a British invention and caused inevitable problems for Africans when they came under the jurisdiction (control) of Natal's white settler society. Up until 1883 the Borough Police were only permitted to arrest people for being drunk and incapable if they were lying down and were incapable of getting up. In addition, they were not empowered to arrest people for creating a disturbance if they were not in a public place. These bye-laws, however, must have seemed unduly harsh to African people who had been allowed to lie down during or after a traditional beer festival and to make as much noise as they pleased. During 1883 Durban's 110th. bye-law was tightened even further, stating that "Every person found in any public place within the borough either drunk or incapable, owing to the

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<sup>3</sup>. J. Stuart and D. McK. Malcolm (eds.), The Diary of Henry Francis Fynn (Pietermaritzburg, 1950), p. 270.

<sup>4</sup>. See E.J. Krige, op. cit., pp. 58-60.

<sup>5</sup>. There was a general age restriction, youths below the age of 20 not being permitted to drink.

<sup>6</sup>. C. de B. Webb & J.B. Wright, A Zulu King Speaks, p. 91.

effects of liquor, of taking care of himself or herself, may be taken into custody." (7) Cetshwayo confirmed that there was no law to prohibit the sale of brandy or rum, but that such a law was not required since very few people sold these liquors. The king had only allowed John Dunn to bring brandy into Zululand. Some traders brought brandy in for themselves and occasionally a Zulu would go to their wagon to obtain a little. Cetshwayo considered that the unrestricted sale of brandy would be "a very bad thing, and would ruin the country." (8)

In Zululand young people of both sexes were not permitted to indulge in beer-drinking nor to take part in beer-drinks until well beyond 20 years of age. This rule applied equally to all women; although they could satiate their thirst for beer in the privacy of their own homes, they were never allowed to visit strange homesteads for the purpose of drinking. These traditional customs, however, began to be corrupted when Africans came into contact with the European civilization of Natal's settler community. As Bryant has observed, African women gradually began to move about freely from homestead to homestead in order to satisfy their desires for drink. Bryant regarded this as "one of the most lamentable consequences following European rule." (9) Before the advent of white rule, such a habit had been "the sole and jealously guarded prerogative" of the *amadoda* or elder men. (10) During three or four months (in the period April to August) of each successive year, when the *mabele* supply was still abundant, these men would live to a large extent, or even entirely, on "kafir" beer. (11) Generally, however, the beer was supplemented by at least one solid meal daily of *izinkobe* or some other type of food preparation. (12) Thus while the younger portion of the population was receiving nearly half its daily sustenance from fermented milk, the elder half was, during a quarter of the year, either substituting therefore, or adding thereto, copious draughts of fermented *mabele* and maize in the form of "kafir" beer.

White employers of labour complained bitterly about this period of extensive drinking. On the one hand, it interrupted the supply of labour since many Africans went back to the reserves to enjoy this age-old tradition. On the other hand, those Africans who remained with their employers often enjoyed access to increased

7. NM, 5 January 1883.

8. Ibid.

9. A.T. Bryant, A description of native foodstuffs and their preparation (Pietermaritzburg, 1907), p. 8.

10. Ibid.

11. At the commencement of the dry season in March or April, the ripe grain was gathered from the fields, signalling the start of a three or four month beer-drinking period.

12. *Izinkobe* are mealie-grains boiled in water until softened. They are eaten without further flavouring and constituted the staple article, the "bread", of the Zulu diet.

quantities of *utshwala* at this time, took advantage of the opportunities to imbibe lustily of their favourite brew and as a result were often in a semi-intoxicated state when it was time to work, thus retarding the productivity of their white employers. Both scenarios were equally frustrating to the white employer who understandably called for restrictions on African access to alcohol, both the traditional "kafir" beer and European liquors, such as brandy and rum, and later in the colonial period, new African concoctions such as *isishimiyana* ("shimian").<sup>(13)</sup>

Despite this three to four month period during which Zulu men survived almost wholly on "kafir" beer, and considering the importance which beer enjoyed in traditional society as both a food and a drink throughout the year, drunkards were virtually unknown in Zululand. Quite a large quantity of *utshwala* had to be imbibed before it became intoxicating. Africans could reportedly absorb "the most prodigious quantities" of this beer, but after drinking solidly for a day and a half, they were apt to become "very quarrelsome".<sup>(14)</sup> Kidd describes a traditional Zulu beer-drink in the following terms: "They sometimes drink till they can hold no more, and then lie out in the sun to get rid of the liquid by perspiration, when they set to work once more. This process may be kept up for days together. Beer drinks are equivalent to our garden-parties and other social ceremonies all rolled into one."<sup>(15)</sup> Only an especially important person would be sent an invitation to attend a beer-drink; the rest, including passers-by, would merely gravitate to these great drinks. The women brought out huge pots holding immense quantities of beer. A small calabash and a skimmer was supplied. One man would blow or skim off the scum and take out a small dishful of beer, and after drinking his fill passed the pot onto the next man. In the early days it was customary for the host to drink some beer first to show that it was not poisoned. If the pot was not too large, Africans would drink from it directly.

According to Kidd, when the men grew quarrelsome tribal fights began and "broken heads [were] sure to be the result." He considered it "surprisingly difficult to break a Kafir's skull": "I have seen natives fight with heavy knobkerries, and hit one another as hard as they could on the skull, but they did not seem to feel it much. It is a sort of scratching of the head which is not unpleasant, apparently, though the blood flows freely."<sup>(16)</sup> Another alleged result of these beer-drinking festivals was that the participants developed an enormous appetite for meat, which they consumed in

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<sup>13</sup>. An intoxicating liquor made by the rapid fermentation of treacle and water. The word "shimian" was a corruption of the English word machine, probably adopted by Africans from the machines being used on the sugar plantations.

<sup>14</sup>. D. Kidd, *op. cit.*, p. 327.

<sup>15</sup>. *Ibid.*

<sup>16</sup>. *Ibid.*

large quantities once the beer had finished. White cattle and sheep farmers, who complained bitterly throughout the colonial period that their herds and flocks were decimated by hordes of marauding black thieves and stabbers, called persistently for these traditional beer-drinks to be abolished or regulated so that their animals would be safe from the ravages of hungry African beer drinkers.

Bryant criticized those colonists who regarded "kafir" beer as simply and solely an intoxicating drink. In his opinion, it was much more than a "luxurious and supererogatory beverage". It was rather a "very admirable, very beneficial, even perhaps, very necessary, form of food." (17) He called on government legislation to recognize this fact and aim at preventing its abuse rather than preventing its use altogether.

In pre- and early colonial times, therefore, beer and beer-drinking formed an important part of African life. It played a vital part in the religious, social and economic life of the people and was in no way comparable with the consumption of liquor by the average European. (18) Drunkenness was not a very frequent occurrence and was usually confined to specific occasions. Alcoholism was unheard of. Once the African came into contact with the European 'civilization' however, beer began to lose its ritual significance and maintained its social value only to a limited extent. More expensive and often less tasty European foods began to replace it in the economic sphere. European spirituous liquors, such as brandy, whisky and cane, were drunk by Africans who went to the 'white' towns to work, usually replacing the wholesome *utshwala* as their favourite brew. In addition, when yeast, treacle and sugar became available, new and injurious concoctions, intoxicants by nature, were speedily manufactured by the indigenous African population themselves. Of these, *isishimiyana* ("shimian") was the most common and is still manufactured today in back-yard shebeens. African drunkenness, which had been uncommon in traditional Zululand, soon became an everyday occurrence as town Africans succumbed to the vices of the supposedly superior white Anglo-Saxon culture. Unrestrained by the traditional shackles of chief, tribe and family, young men (and women to a lesser extent) revelled in their new-found freedom, drinking copiously of the white man's liquor, which more often than not led to drunkenness because of the relatively high alcohol content of European spirits. But whereas drunken and disorderly conduct (to the mild extent to which it existed) had not constituted a crime in Zulu society, the bye-laws of towns like Durban and Maritzburg defined such behaviour as an offence. Many town Africans, therefore, fell foul of the law, being punished for behaviour which their society had not regarded as offensive. While it is

17. A.T. Bryant, Description of native foodstuffs, p. 9.

18. L. Longmore, op. cit., p. 208.

no doubt true that Africans soon realised the 'rules of the game', the lures of European liquors proved to be too powerful for many of these people. Separated as they were from their families for long periods of time, bound by menial, uninspiring work for low wages (with little prospect for self-improvement) and suffering from an absence of recreational facilities for African workers, many of these newly urbanised Africans found strong drink, and the camaraderie which accompanied drinking with friends, to be their only solace in a fairly dismal social and economic environment.

The culture of Victorian intemperance and drunkenness was imported into Natal where it had a destructive impact on both African and Indian communities. While agricultural England had centred its recreations on seasonal festivals and on sports involving animals, urban England in the nineteenth century needed a different recreational pattern. According to Joseph Arch, the village lad had two kinds of recreation open to him: "he could take his choice between lounging and boozing in the public house, or playing bowls in the bowling alley. That was all." <sup>(19)</sup> In the England of the 1820s alcoholic drinks were primarily thirst-quenchers. Even in the countryside, drinking water was unsafe and scarce, and when population concentration further contaminated supplies, it was natural for town dwellers to rely increasingly on intoxicants whose water had been pumped from deep wells, or on beverages whose water had been boiled. London's problems in the 1820s epitomize those facing all rapidly growing towns. In the late 1820s London's water was still not purified. London hospitals wisely gave their patients alcoholic drinks and in the 1840s health inspectors were ridiculed by London slum-dwellers for supposing that the local water could ever be safe to drink. In the 1870s many Londoners still believed that water should not be drunk until purified with spirits. It was difficult for a Londoner even to find drinking water in the 1820s; its scarcity created the profession of water-carrier. Even in upper-class households in the 1850s supplies from water mains were intermittent; only when iron replaced wooden pipes could cistern-storage remedy the defect. London brewers, anxious to prevent their own wells from drying up, opposed the sinking of deep wells for public supply, while London publicans were often the only slum-dwellers with their own water supply. London possessed few public pumps. Milk was a dangerous drink even when fresh. At Lancing College in 1848 milk was double the price of beer. In the northern industrial towns in the 1830s milk, though cheaper than in London, was "but little used" and Manchester's milk was even worse than London's. Few cordials were manufactured at this time: soda-water was not made commercially in England till 1790, while ginger-beer was

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<sup>19</sup>. J. Arch, Joseph Arch. The Story of His Life (1898), p. 34. cited in B. Harrison, Drink and the Victorians (London, 1971), p. 32.

not sold in the London streets in summer till 1822. But non-intoxicating drinks were cheapening in relation to alcoholic drinks and in the 1820s it was becoming easier to obtain them outside the public-house. Although by the 1830s tea had fallen rapidly in price and had become virtually a necessity for working people, it was the London coffee-shop which was making great strides. Between 1820 and 1850 *per capita* coffee consumption rose faster than that of tea. By 1830 coffee was cheap enough to rival beer. In 1830 a pint of coffee cost 3d. or 4d., whereas a quartern of gin cost only 3.5d. and a quart of ale cost only 4.5d. or 6d. <sup>(20)</sup> In 1840, while Londoners could buy coffee for 1.5d. per cup, tea for 2d. and cocoa for 4d., they could still buy porter for only 2.5d. per pint. Furthermore, the drinkseller's many social roles made intoxicants more readily accessible than other drinks. On the whole, therefore, non-intoxicating drinks were still neither as cheap as alcoholic drinks, nor as accessible as they later became. They were often adulterated and many still thought them to be debilitating. <sup>(21)</sup>

Intoxicants were far more than mere thirst-quenchers. In the 1820s they were thought to impart stamina. On any occasion requiring extra energy, alcohol was employed. By drinking deeply one asserted one's virility; working men marked their son's maturity by making them publicly drunk at a 'rearing'. Home-brewed beer was thought essential to hospitality and health. Alcohol was also reputed to give extra energy and confidence to the public speaker. Whenever extra effort was needed, employers tended to distribute drink. Almost all men in strenuous work believed that intoxicants gave them the energy they required. Intoxicants were closely associated with the strenuous trades such as bellringers and blacksmiths. Though intoxicants were no better than food for providing energy, no doubt their stimulating effects could temporarily dull the fatigue resulting from long hours and hard labour. Drinking was also widespread among trades where physical effort was less important because the pressure of work could still be artificially varied: the drunkenness of self-employed craftsmen - early Victorian hatters, tailors and shoemakers, for example -, owed as much to voluntary idleness as to compulsory overwork. It is not unfair to say that during the 1820s educated working men striving for self-improvement were often the most drunken of all men. <sup>(22)</sup>

Alcohol was important in the 1820s as a pain-killer: it comforted the criminal about to be flogged, assisted dentists and surgeons before the days of anaesthetics, quietened crying babies and fortified mothers against the ravages of child-bearing.

<sup>20</sup>. A pint is 563 ml. A quartern is a quarter of a pint, i.e. approximately 141 ml. A quart is two pints or 1.125 litres.

<sup>21</sup>. B. Harrison, *op. cit.*, pp. 37-9.

<sup>22</sup>. B. Harrison, *op. cit.*, pp. 39-40.

Alcohol provided protection against the bad air resulting from poor sanitation and popular reluctance to open windows. Spirits were thought to cure indigestion, which at that time was the commonest ailment of the poor, owing to bad or adulterated food. They also gave protection against infection and few working people were ever completely fit at this time. Alcohol temporarily relieved psychological as well as physiological strain: for instance, it calmed fears of social disapproval, perhaps felt by a rioter preparing to riot, or a murderer contemplating his nefarious task. Drink moderated the harshness of social isolation, consoling the prostitute, the pauper and the rake. Advocates of temperance, often mistaking effect for cause, strongly emphasized the connection between drinking and social downfall. Drink was an important mechanism by which members of society established their mutual relationship without need for a written contract: for example, through hospitality the landlord established good relations with his tenants and reinforced his social prestige. Drink helped to reduce the inhibitions of courting couples, who found privacy and recreation in the drinking place. Nineteenth-century workshops were not only places of work, but were also centres of social life and social relations. Fear of society, fear of strangers, fear even of life itself could foster drinking when prosperity seemed to be a life-time away: "Drink was the refuge of working people whom catastrophe inevitably pursued, despite all their efforts as they drudged on in their hopeless state, unknown, unheeded, quiet and composed. It brought relief from mingled fear, worry, anxiety and foreboding felt by peoples in all societies where the smallest setback means disaster." (23) Self-help ideologies, by attributing individual failure to personal inadequacy, did not help matters. The poor tended to share sorrows over a drink instead of giving more constructive mutual help. Besides moderating gloom, drink enhanced festivity. Like the modern cigarette, it was a convenient, generally acceptable, easily consumed article of symbolic exchange and so featured prominently in the reaffirmations of social relationships which occurred at such times. Parsons, often themselves the sons of publicans, mingled socially with magistrates, brewers and farmers. Drunkenness among the clergy was a common phenomenon. Thus alcohol the thirst-quencher, the reliever of physical and psychological strain, the symbol of human interdependence, was a formidable antagonist for temperance reformers to tackle. Early teetotalers, like pioneer vegetarians, sacrificed comforts which not only made life tolerable, but were actually thought to make life possible. (24)

Drinking places mirrored the interests and needs of their localities; broadly speaking, their two main roles were as recreation centre and as meeting place. The working man's home was often cold, uncomfortable and noisy. He and his wife lived at too

<sup>23</sup>. B. Harrison, *op. cit.*, pp. 42-3.

<sup>24</sup>. B. Harrison, *op. cit.*, pp. 41-4.

close quarters and his drink expenditure probably increased with the size of his family. More important, his home had only begun to lose its machinery and was only beginning to acquire its comfortable furniture. By the 1820s the drinking place still possessed many comforts absent from the poor man's home. Light, heat, cooking facilities, furniture, newspapers and sociality were then obtained by the poor only at the drinking place: "The price of a drink was their entry fee to comforts which the prevailing social situation enabled them to enjoy only communally." <sup>(25)</sup> Harrison has suggested that the drinkshop was often a light in the darkness and that the drinkseller was providing a most important service to his clientele:

Certainly the drinkshop's blaze gained effectiveness from the inadequacy of street lighting and from the darkness of homes where candles could not be afforded; and its lavish baroque facade was set off by the meanness of many surrounding slum dwellings. Yet the drinkseller was no parasitic villain: he responded to a genuine human need, and was a popular and respected provider of recreation and comfort to a world which would have been intolerably drab without him. <sup>(26)</sup>

Foreigners attributed English drunkenness to the depressing climate. Bad weather limited opportunities for outdoor recreation. Even in good weather, large towns lacked open spaces. Recreational facilities were lacking, especially for the poorer classes. Public parks, where they did exist, were often closed to working people. The fear that crowds could not gather in public places without hooliganism and drunkenness survived into the 1880s and beyond.

The drinking place also became a meeting place because it was the local news centre at a time when most news travelled through personal encounter. The public house was both the railway station and the post office of the 1820s. It was also one of the few buildings, apart from the church, which all could enter. Many individuals went to the drinking place - as to the chapel - simply because there was nowhere else to go. Rivalry could be expressed through competitive drinking and status through displaying alcoholic possessions. In short, through drinking, "all types of human relationship were expressed without the need even for an exchange of words." <sup>(27)</sup> By the 1850s there were more drinksellers in London than fishmongers, dairy-keepers, cheesemongers, greengrocers, butchers, bakers and grocers combined.

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<sup>25</sup>. B. Harrison, op. cit., p. 47.

<sup>26</sup>. B. Harrison, op. cit., p. 48.

<sup>27</sup>. B. Harrison, op. cit., p. 56.

The effects of industrialization on drinking habits were so complex that it is impossible to say whether it worsened the drink problem. In some ways it made sobriety more feasible. The change in methods of production at last created a class with a direct interest in curbing drunkenness. Hitherto essential but exhausting tasks had been accomplished largely through wielding the incentives of hunger or festivity, and the inseparability of drinking from customary recreations made it difficult to obtain precise and regular workmanship. But the latter were precisely the requirements of the factory system. Early industrialists needed to create a smooth working rhythm and to induce employees to enter and leave their factories at specified times. Investment in complex and costly machinery placed the employee's precise and continuous labour at a higher premium than the spasmodic exertion of his crude physical energy. Once this need had arisen, customary drinking patterns had to change. Industrialization also helped to reduce drunkenness in a second way: the factory roof shielded an even larger proportion of the population from the elements. Factory life did not require any fortification against the elements. Nor was factory labour always as physically demanding as other types of work. The textile industries employed more women and children, a sign that less brute force was needed than in most contemporary occupations.

In other ways, however, industrialization actually increased the attractions of drink. Although it curbed voluntary unemployment, it accentuated cyclical and technological unemployment; unexpected idleness was the gateway to sin, whether it be drunkenness or prostitution. It created some new occupations - iron smelting for instance - which exposed some employees to new extremes of heat and cold. In many cases it substituted psychological for physiological strain by increasing the monotony of work. Industrialization also fostered drunkenness by forcing migrant labourers into a strange environment and by weakening traditional sanctions on conduct. <sup>(28)</sup> The living conditions associated with industrialization were often so miserable as to encourage people to seek liquor in order to escape from the realities of every-day life.

This culture of drinking and drunkenness was brought to the Colony of Natal by the English settlers who began arriving in the region from 1824 onwards. Many Indians and Africans, generally unaccustomed to drinking (particularly European spirits) and the consequent drunkenness, fell victim to the attractions of the white man's drink and embraced a vice that was almost alien to their cultures. The European habit of drinking intoxicating liquors had a severely deleterious effect on the colony's African and Indian populations.

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<sup>28</sup>. B. Harrison, op. cit., p. 40.

Drunkenness became part of the stereotype used by whites to describe the nature of town Africans. In 1868 the editor of the Natal Mercury expressed concern that the vice of drunkenness amongst the African population was "terribly on the increase". He saw European alcohol as having a potent influence on the African:

Upon the coastlands kafirs seem thoroughly infected with the craving for strong drink. Nothing tempts them so much as ardent spirits. Even money is in many instances only valued as a means of buying rum. The Zulus appear to yield just as completely to this acquired vice as did the Indians of America. It bids fair to be a far more potent agent in fashioning the future of this people than any system of political treatment, or any kind of social or educational influence. <sup>(29)</sup>

The incidence of African drunkenness in the Borough of Durban increased significantly during the period under review. For example, in 1864 only 22 Africans (representing 1.6% of Africans living in the borough) were convicted for drunkenness in the Borough of Durban, while by 1894 the number of convictions had risen to 881 (representing 13.7% of the borough's African population). <sup>(30)</sup>

Issues of moral reform are one way through which a cultural group acts to preserve, defend, or enhance the dominance and prestige of its own style of living within the total society. Gusfield has observed that in the set of religious, ethnic and cultural communities that have made up American society, drinking (and abstinence) has been one of the significant consumption habits distinguishing one sub-culture from another. Because drinking and non-drinking have been ways to identify the members of a sub-culture, drinking and abstinence became symbols of social status, identifying social levels of the society whose styles of life separated them culturally. They indicated to what culture the actor was committed and hence what social groups he took as his models of imitation and avoidance and his points of positive and negative reference for judging his behaviour. The rural, native American Protestant of the nineteenth century respected temperance ideals. He adhered to a culture in which self-control, industriousness and impulse renunciation were both praised and made necessary. Any lapse was a serious threat to his system of respect. Sobriety was virtuous and, in a community dominated by middle-class Protestants, necessary to social acceptance and to self-esteem. <sup>(31)</sup>

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<sup>29</sup>. NM, 18 Jan. 1868.

<sup>30</sup>. MM, Dbn, 1864-1894.

<sup>31</sup>. J.R. Gusfield, Symbolic Crusade: Status Politics and the American Temperance Movement (Illinois, 1963), pp. 3-4.

There is a direct correlation between the American experience and that of colonial Natal. In Natal two fundamentally different cultures met head on; on the one hand there was the Anglo-Saxon culture of the white settlers, while on the other there was the culture of the indigenous Nguni-speaking people, most of whom traced their ethnic roots to Zululand. The European culture was essentially 'advanced', both morally and economically, coming as it did from the home of Queen Victoria and the industrial revolution. The African culture, through the perception of the white colonists, was backward in every way, being economically stagnant and morally reprehensible. It was the dominant white culture which ruled the Colony of Natal by virtue of their superior military strength and administrative ability. The culture of the region's African people became almost a sub-culture, personifying a wide range of undesirable qualities such as drunkenness, immorality and sloth. White settlers who displayed public drunkenness or engaged in sexual relations with Africans were considered to have fallen from society, becoming members of the inferior sub-culture dominated by the African population. It was not that the white culture practised total abstinence, but rather that they perpetuated the myth that the European culture was characterised by moderate drinking habits, whereas non-Europeans were given to various excesses which demoralised the individual and eroded the moral fabric of society. As in Victorian England, the ruling classes believed that the lower classes were most susceptible to the vice of drunkenness. In the Colony of Natal, these lower classes were composed almost exclusively of Indians and Africans, who were frequently condemned by white authorities and residents for their allegedly immoral and drunken behaviour. In reality, however, these were social myths perpetuated by the white, Victorian culture in order to defend and extend its own privileged position in the colony. <sup>(32)</sup> Throughout the period under review, the white authorities, both government and municipal, introduced a host of legislative enactments in order to control the Indian and African people living in the region. These control mechanisms were introduced and enforced under the guise of moral reform.

Gusfield has shown that in America temperance was used as a method of social control. There were two phases in the development of the American temperance movement during the period 1826-60. Although these phases overlap, each was connected with the status aspirations of a different social class. In the first phase,

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<sup>32</sup>. In 1864 176 whites (5.8% of the white population), 77 Indians (33.3% of the Indian population) and 22 Africans (1.6% of the African population) were convicted for drunkenness in the Borough of Durban. By 1894 members of the Indian population were the principal offenders (1 375 cases; 38.6% of population), ahead of whites (546 cases; 13.8%) and Africans (881 cases; 13.7%). The criminal statistics indicate that whites contributed significantly to the high level of drunkenness in the Borough of Durban. MM, Dbn, 1864-1894.

temperance represented the reaction of the old federalist aristocracy to loss of political, social and religious dominance in American society. It was an effort to re-establish control over the increasingly powerful middle classes making up the American "common man". In the second phase temperance represented the efforts of urban, native Americans to consolidate their middle-class respectability through a sharpened distinction between the native, middle-class life styles and those of the immigrant and the marginal labourer or farmer. <sup>(33)</sup>

While Natal colonial society was different to American society during the first half of the nineteenth century, a similar pattern of social control can be distinguished in the British colony. In Natal liquor legislation, aimed as it was primarily against the region's black population, represented the reaction of the ruling white race to the perceived political, economic and social threat posed by Indians and Africans. Confronted by an enormous indigenous African population and the reality of a steadily increasing urban black population, the colonial authorities and white residents regarded the question of establishing and maintaining control as being of fundamental importance. Attempts at curbing popular drunkenness in Natal were also aimed at maintaining the respectability of the white race by means of a sharpened distinction between the life-styles and mores of white people and the customs and usages of African and Indian people. For this reason, the sobriety of whites needed to be a visible reality. The majority of Natal's white residents favoured prohibition or restrictions on the use of alcohol in order to impose various controls on black people. These controls fall into three broad categories:-

- a) Economic - The demands of productive labour called for a sober work force. This was especially true for the indentured Indian labourers working on the sugar plantations. African and Indian drunkenness would threaten the economic viability of white enterprise.
- b) Social - White society would feel safer if African and Indian drunkenness could be brought under control. It was widely believed that the majority of crimes was committed by criminals who were under the influence of alcohol. The perception was that restrictive liquor legislation would safeguard both the persons and the property of white residents.
- c) Moral - The Victorian moral standards supposedly upheld by the colony's white population demanded that drunkenness be firmly dealt with. This was especially true of lower class drunkenness, and in Natal, this took on a racial connotation since most Africans and Indians were members of the labouring class. Victorian morality

<sup>33</sup>. J.R. Gusfield, op. cit., pp. 36-7.

believed that drink demoralised the lower classes and would eventually cause the breakdown of society. The ruling white race claimed frequently that they had a responsibility and desire to effect the moral upliftment of the region's African people. Their methods of upliftment, however, place serious doubts upon their sincerity and integrity in this regard.

As early as 1856 it was deemed necessary to impose restrictions on the consumption of liquor by members of the African population. Natal's white population had no doubt become concerned about the effects which European liquors were having on Africans, in particular the increase in drunkenness and other crimes which were allegedly caused by alcohol. Drunken indolence on the part of African men was another concern expressed by the white colonists. Ordinance No. 4 of 1856, which was aimed directly at the region's African people, was the first in a long line of laws and regulations which were passed throughout the colonial period with the direct intention of controlling the African population, under the guise of moral concern and reform. Ordinance No. 4, 1856 - "To prohibit the sale and disposal of spirits, and other intoxicating liquors, to persons of the native race" - was enacted in an attempt to alleviate what was perceived as a growing social evil. <sup>(34)</sup> This law made it illegal for any person to sell or supply spirituous liquor, wine, fermented liquor, or mixed liquor, part whereof was fermented, in any quantity whatever, to any person of the "native" race. The penalty for contravention was a fine not exceeding £10. Spirituous liquor could only be supplied to Africans for medicinal purposes. The Ordinance noted the importance of considering the feelings of Africans on the subject. The Lieutenant-Governor was empowered to modify or to suspend the operation of any of the provisions of the Ordinance which appeared to him "from the state of native feeling on the subject, or otherwise, to be impracticable or inexpedient, to carry into immediate operation." <sup>(35)</sup> He was further empowered to bring in a substitute provision which was "better adapted to give effect to the purposes of this Ordinance, and to secure the concurrence of the native inhabitants of the colony therein." <sup>(36)</sup> It is unlikely that African opinion would ever have been a primary consideration when the Natal Government came to determine its official policy on the supply of liquor to the African population, but it is interesting to note that in 1856 the white government at least purported to consider the opinions of the African community.

Durban was well endowed with retail liquor outlets at this time. George Russell has described the public houses existing in Durban in 1860, canteens which had

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<sup>34</sup>. NGG, 5 Feb. 1856.

<sup>35</sup>. Ibid.

<sup>36</sup>. Ibid.

provided both refreshment and entertainment to the town's white settlers since the 1850s. <sup>(37)</sup> In West Street the Phoenix was situated, a wattle and daub building enclosed by a tall reed fence, and kept by an ex-military man. On the opposite side of the road resided Widow Quested with her two industrious daughters from Kent, in a pretty thatched cottage, standing back from the street, with neat palings and flowers in front. To supplement her income she manufactured ginger-beer, setting aside a comfortable room for its quiet consumption. As John Gavin's foundry was adjacent, business was extremely good, inducing her to add the brewing of hop or sugar beer, and ultimately to apply for a canteen license, christening her enlarged establishment the Kentish Tavern. Around the corner of Grey's Street was Drew's or the West End Hotel, a house much frequented by the military. Made of brick with green palings along its front, it offered a wide variety of entertainment: music, dancing, skittles, and use of the gloves, with cheap board and lodging. Proceeding up Pine Terrace, one arrived at the Trafalgar Hotel. By 1860 the Bodega Bar stood on this site. The Travellers' Rest was another military house, located on the corner of Field Street and Pine Terrace, otherwise known as Dacomb's corner. Gable-ended and thatched, it was the last house of call on the way to the Camp, or for the traveller by wagon to Maritzburg or Zululand. Over the years it had changed its name with changing tenants to the Jerusalem and the Globe. The British Banner in St. George's Street, kept by a man named Robertson, was frequented chiefly by the artisan class as a sort of social club room, where they spent their evenings in amusements and the discussion of local politics and prices. Bagatelle and cards were popular games. Not being a frequenter of canteens, Russell could recall no pronounced cases of gambling at these houses. The magistrate was rarely troubled with drunks: "roysterers" usually saw each other home, or spent the night in the nearest bush, out of harm's way. <sup>(38)</sup>

The reports of the Resident Magistrates of Pietermaritzburg, Klip River, Tugela, Umvoti, Weenen and Upper Umkomanzi for 1861 make no mention of crime of any nature. The R.M. for Durban, however, reported an "unusual increase" of cases in the calendar of crime. Complaints against Indians had increased, principally as between masters and servants, but also many for theft and assault. In addition, the increased number of ships visiting the port and the discharge or desertion from them of many bad characters, together with the continual influx of European immigrants, had advanced the number of white prisoners in a ratio of two to one on previous years. He reported that the vigilance of the Borough Police was in some measure responsible for the "unprecedented number" of complaints against, and convictions of, white men, especially sailors, and hottentots, for drunkenness and other petty

<sup>37</sup>. G. Russell, *op. cit.*, .pp. 498-9.

<sup>38</sup>. *Ibid.*

offences. <sup>(39)</sup> In the other districts of the colony, however, drunkenness does not appear to have manifested itself as a problem by this time.

As early as 1861 concern was being expressed about a subject which was to occupy the attention of colonists throughout the colonial period, viz. "coolie" drunkenness. <sup>(40)</sup> At a meeting of the Durban Corporation, Councillor Winder asked that canteen-keepers should be cautioned about selling liquor to Indians. He pointed out the evils arising from Indians coming into town to spend their money on drink. Although he believed that every man should have freedom to do as he liked, he objected to an Indian being allowed to injure the interests of his master. Councillor Beningfield, however, argued that white men were much more addicted to drinking than Indians. <sup>(41)</sup> He had only seen one drunken Indian in his time. Councillor Sanderson recommended legislative action to solve the problem of Indian drunkenness. This, unfortunately, was the usual response of the Natal authorities to crime and social problems. Instead of confronting a problem and dealing with it in a positive and constructive manner, they usually tried to crush the problem with far-reaching laws and harsh penalties. No attempt was usually made to get to the root of the problem.

In Pietermaritzburg too, drunkenness was regarded as a prevalent problem by at least 1861 and its lamentable effects were a source of concern to all caring citizens. The editor of the Natal Witness, in considering the measures which needed to be adopted to counteract the growth of this vice, correctly perceived that no Act of Parliament would ever make men virtuous: "Restrictive legislative enactments regarding the sale of liquors, have been tried in England, in America, in Australia, and, we believe, that in every case, [this] has been proved in fact. The effect, indeed, of a prohibitive enactment is to increase instead of diminish the evil." <sup>(42)</sup> An unscrupulous man, knowing that people will procure drink, lawfully or unlawfully, begins smuggling on a considerable scale. Other unscrupulous men, acting on their own initiative, do the same. Stocks become large, prices diminish, and the amount drunk increases. The evil did not end there. Where before there was a single licensed house, "half-a-dozen unlicensed ones spring into existence, to become eventually haunts of infamy and crime." <sup>(43)</sup> The editor believed that no "cut and dry scheme" would produce the good intended since "such schemes raise invidious distinctions, set class against class, and divide, in place of amalgamating, society."

<sup>39</sup>. NBB, Vol. 1, 1861.

<sup>40</sup>. NM, 14 Feb. 1861, Dbn. Corp. 11 Feb.

<sup>41</sup>. No figures are available for 1861, but the statistics for 1864 reveal that 176 whites and only 77 Indians were convicted for drunkenness in the Borough of Durban. MM, Dbn, 1864.

<sup>42</sup>. NW, 20 Sept. 1861.

<sup>43</sup>. Ibid.

(<sup>44</sup>) In his opinion, it was useless to hire a room and put up a placard reading, "Drunkards reformed here!", since no one would visit such an institution, as people were not in the habit of admitting that they were drunk, even less that they were drunkards, and needed schooling into reformation. Instead, he recommended more indirect means. To bring these into operation, society needed to rouse herself from her present slumber: "At present, as though under the influence of chloroform, she sees her members become useless, or loses them altogether, without betraying, by a single groan, her pain at either event." (<sup>45</sup>) What the editor seems to be implying is a more moralistic, human-oriented approach as opposed to the much favoured legislative action. A scheme needed to be developed which would encourage people to reform their drinking habits and a society needed to be created which was conducive to more sober habits. Unfortunately for the history of colonial Natal, men with vision similar to that of the editor of the Natal Witness were few and far between. All the colony's people became victims of this dearth of creative thinking.

The town of Ladysmith also appeared to be having liquor problems in the early 1860s. A correspondent to the Natal Witness claimed that the white people of Ladysmith had to endure "the most degrading scenes of intoxication and licentiousness." (<sup>46</sup>) He alleged that at least four times a week troops of young African maids headed by a matronly African lady all in a perfect state of nature, except for a very narrow strip of fringe tied round their bodies, entered Ladysmith, each with a pot of beer on their head. This beer was sold to the African servants of the town at one shilling per pot. Each pot contained about one and a half gallons, meaning that between fifteen and thirty gallons of beer was sold each day. (<sup>47</sup>) Drunkenness invariably ensued and the obscene handling of these maids by intoxicated young men in public streets in broad daylight was apparently "most demoralizing": "they howl, scream, hug, kiss, in fact description is impossible, for it will be as repugnant to me to write as to you to read it." (<sup>48</sup>) He claimed that in those beer days Ladysmith was "obscenity personified". (<sup>49</sup>) His primary concern was not for the health and welfare of local Africans, but for the potential effects of African drunkenness on the well-being of the white population: "I assure you parents with children growing up about them and with the least care for their moral training have cause for deep reflection." (<sup>50</sup>) Whites in colonial Natal forever feared that their perceived high Victorian standards of morality would be corrupted by contact with

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<sup>44</sup>. Ibid.

<sup>45</sup>. Ibid.

<sup>46</sup>. NW, 17 Oct. 1862.

<sup>47</sup>. An imperial gallon is equivalent to 4.5 litres.

<sup>48</sup>. NW, 17 Oct. 1862.

<sup>49</sup>. Ibid.

<sup>50</sup>. Ibid.

the so-called immoral behaviour of Africans. The British policy of christianising, commercialising and civilising Africans was therefore based primarily on self-interest; if whites had to have Africans in their midst, they wanted to make sure that these Africans would resemble them as closely as possible. In short, Natal's white population, overflowing with Victorian arrogance, wanted to make good whites out of their black brothers.

With drunkenness becoming a potential social problem, debate began to arise as to its cause and cure. The Natal Witness published an article on this subject as it pertained to England, but the relevance to the situation in Natal was obvious. The writer noted that although drunkenness was a cause of infinite crime and misery, it should be seen rather as an effect of evil than as a cause. The main cause of drunkenness in the great cities of England was bad air, bad food, and bad lodging. Confined workshops and bedrooms, where the light and air were excluded, had much to do with the promotion of drunkenness. A man living under these conditions suffered in both body and soul - his blood was not properly oxygenated; and to overcome a miserable feeling of languor he resorted to a stimulus, alcoholic drink, which rendered only temporary relief, and was followed by increased languor and depression. Drunkenness was a curable malady, if only men were given a better means of enjoyment. This had been proved by the decrease of drunkenness within the previous 40 years among the upper classes in England, owing to the spread of education, and the many improved and additional means of recreation. By the 1860s in England, people (especially the upper classes) were beginning to appreciate the benefits of living in the countryside, of better ventilated houses, and of the bath! Regular bathing was considered to reduce drunkenness by cleansing the skin, and by bracing the nerves and muscles, thus rendering the application of an artificial stimulant unnecessary. Reformatories, ragged schools and model prisons only treated the symptoms, and not the cause of the disease; the cause could only be touched by "improving the physical condition of the class - by abolishing foul air, water, and lodgings, and by preventing the overcrowding of dwellings, in which morality is difficult, because common decency is impossible." <sup>(51)</sup> While colonial Natal in the early 1860s was neither an industrialised society nor nearly as decadent as the mother country, there were certainly lessons to be learnt from the English experience. If the colony's liquor problem, as it was perceived by white settlers from this time onwards, had been treated in a humanitarian and visionary manner, all members of Natal's community would have been spared a great deal of anguish and suffering. White administrators and legislators would have been able to devote their attention to more important business, while the black members of the community would have enjoyed free access to liquor and the

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<sup>51</sup>. NW, 28 Nov. 1862.

retention of their self-respect. All people living in Natal needed to be incorporated into society and that society needed to be constructed in such a way so that members did not feel tempted to solve their problems at the bottom of a bottle. Unfortunately, this did not happen, and what was really a small problem in these early days, became a mighty one later, probably the single most important social problem experienced by the colony.

In 1863, only seven years after the passage of Ordinance No. 4, 1856, it was considered necessary to introduce a new bill before the Legislative Council prohibiting the sale of spirits to Africans. <sup>(52)</sup> The intention was to crack down hard on white canteen-keepers who sold spirits to Africans by imposing fines and by the withdrawal of their licenses. The bill also included Hottentots under the restrictive legislation imposed on Africans and defined the term "native" and the prohibited drinks in more detail. White legislators were determined to maintain and extend their control over the African population, a control which probably appeared to be even more urgent than at the time of the initial restrictive law passed in 1856.

The House was greatly divided as to the potential benefits of prohibition. Those who argued against the bill believed that prohibition was immoral and was unlikely to prevent Africans from obtaining alcohol. Mr. Millar did not believe in "these stringent laws, nor that they will prevent the sale of these articles, or prevent natives from getting spirits. I think their getting them is a sign of progress. I see no use in encumbering our Statute books with Bills of this sort." <sup>(53)</sup> Mr. Mellersh also noted that such laws were "useless" and would only give rise to drinking in private. The Maine liquor law had proved to be a dead letter and so had the law in Scotland. He believed that the old Ordinance had been broken from the Governor downwards: "most of us have given Kafirs spirits." <sup>(54)</sup> On the grounds of compassion, he argued that a master should have the right to give his cold and wet shepherd a glass of spirits if he so desired. Mr. Akerman opposed the bill because it applied not only to spirits, but also to "small beer" (colonial beer). He saw no reason why he should not give his African labourers a glass of this beer. Mr. J.C. Boshoff preferred to see this small beer generally drunk than "the stuff that is imported here", or "kafir" beer, which he considered to be even worse. <sup>(55)</sup> In general it was felt that a tot of spirits or a glass of beer here and there, granted at the master's discretion, was humane and unlikely to prove an evil to anyone. No doubt too, such fringe benefits were also likely to keep the workforce happy and therefore at a high level of productivity.

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<sup>52</sup>. LC, cited in NM, 31 July, 4 Aug 1863.

<sup>53</sup>. LC, 14 July 1863.

<sup>54</sup>. Ibid.

<sup>55</sup>. Ibid.

Those who supported the bill expressed concern about the demoralising effects of alcohol on the African population and thought that a good deal of the crime committed by Africans had its origins in the consumption of alcohol. Mr. Bergtheil was of the opinion that the bill could prove useful in the towns, especially Durban, "where something is necessary to be done to check the natives from getting supplies of spirits in the way they now do." The object of the bill was "to keep the Kafirs out of the canteens." <sup>(56)</sup> Mr. Wathen regretted "to see a thing go on that would tend to demoralize the natives." While acknowledging that it was impossible to prevent people from drinking spirits, he felt that it was the duty of legislators to suppress it if they could, just as they would suppress brothels and gambling houses. Even though the bill was probably class legislation and might prove inoperative when passed, he thought that it was necessary "to prevent the demoralization of our natives." <sup>(57)</sup> Wathen's brand of paternalism was a notable feature of white colonial feelings towards their black brethren. The Colonial Secretary noted that there had been a great many complaints made about Africans drinking colonial beer. They reportedly got violently drunk upon it and it was necessary for the peace of the town to put a stop to it.

The Attorney-General argued that crime could often be traced to drink and therefore a check should be put upon it. Mr. Crompton also considered that "there was no necessity to hold out inducements to encourage the native in vice." While admitting that the bill might be opposed on the principle of free trade, he argued that free trade was not "necessary for them". Mr. J.N. Boshof hoped that if the bill had a favourable effect on Africans, it would be extended to whites who were accustomed to come into town and "expend all their money in beer and get beastly drunk." Mr. Saunders also supported the bill, believing that its purpose was not so much to prevent Africans from obtaining beer, but to prevent them drinking in canteens. He saw "great objections to their going there and mixing with white parties drinking" since this practice placed Africans "in a wrong position and on an equality which they have no right to." If this was allowed to continue, Africans would "soon lose all respect for the whites." <sup>(58)</sup> This line of reasoning was based firmly on the old adage that "familiarity breeds contempt" and was a cornerstone of the "native" policy of the white colonists in Natal. Even at this relatively early stage in the colony's history, most whites believed that the African culture was inherently and irrevocably inferior to the white Anglo-Saxon culture. They believed that the 'excesses' of the African culture, in this case drunkenness, needed to be controlled so that they could not threaten the

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<sup>56</sup>. Ibid.

<sup>57</sup>. Ibid.

<sup>58</sup>. Ibid.

peace and stability of white civic life. Any unnecessary contact between the races would also need to be controlled since such contact would supposedly destroy the respect which the black man held for his white master, and therefore dismantle the control that he exercised over black people. Such attitudes have merely served to retard the socio-economic and political development of the region and have caused a great deal of inter-racial tension and violence.

Law No. 18 of 1863 was duly passed, repealing Ordinance No. 4 of 1856, entitled, "Ordinance to prohibit the sale and disposal of spirits, and other intoxicating liquors, to persons of the native race." This law can be seen as a general tightening up of the provisions of the ordinance which it replaced. Whereas the ordinance had applied only to "natives", the new law included the Hottentot population within its provisions. It was also felt necessary to define the word "native" as meaning "any person belonging to, or being a descendant of any of the native tribes of South Africa." <sup>(59)</sup> The new law was more specific as to the categories of liquor which were prohibited: "any brandy, gin, rum, or any other spirituous liquors, nor any wine, nor any ale, beer, porter, nor any other fermented liquor of an intoxicating nature, nor any mixed liquor containing any intoxicating, spirituous or fermented liquors." <sup>(60)</sup> The penalty for contravention was made more comprehensive. In addition to a fine not exceeding £10, the law made provision for the option of a period of imprisonment not exceeding three months, with or without hard labour. Every offence committed under this law would be prosecuted by the Clerk of the Peace in the court of the Resident Magistrate in whose county or division the offence was committed. All fines levied were to be paid to Her Majesty and, unless remitted, would be passed on to the Natal Government for its use. The Town Clerk of a borough could also prosecute such offences in the court of the Resident Magistrate. In such cases fines would be paid over to the corporate funds of that borough. An amount not exceeding one-half of any fine imposed by the court could be awarded to any informant who gave information leading to the conviction of an offender. In cases where the offender was a licensed dealer, the Resident Magistrate was empowered to suspend or cancel the license of that dealer. This law represents the first attempt by the authorities to crack down on the liquor dealers, usually the canteen-keepers, who were believed to supply Africans with intoxicating liquors. For the remainder of the colonial period, it was frequently debated as to whether white canteen-keepers or Indian liquor-traffickers were responsible for the supply of alcohol to the African population, which was allegedly responsible for the demoralisation of that section of the people of Natal.

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<sup>59</sup>. NGG, 11 Aug. 1863.

<sup>60</sup>. Ibid.

A second piece of liquor legislation was also passed during 1863, namely Law No. 23, 1863, which laid down various regulations concerning liquor licenses. <sup>(61)</sup> Although this law was not aimed specifically at the African population, it was an attempt to exercise greater control over the liquor industry generally. While Africans were not permitted to take out licenses for the sale of liquor, it was hoped that this law, by regulating the white liquor dealer, would help to curb African drunkenness by controlling the dealers who so often supplied Africans with drink. Retail dealers who sold liquor in quantities of not less than nine litres had to take out a license to the value of £15. With respect to liquor to be sold in quantities of less than nine litres, the law differentiated between a retail license to the value of £7, when the liquor was to be sold within the limits of a municipal borough, and a license costing £2 10s., when liquor was to be sold outside a municipal borough. The granting of a license was vested in the council of any borough and could not be granted by a Resident Magistrate. The amount received from any license would be paid into the public funds of that borough. If a license was refused by the council, appeal could be made to the Supreme or Circuit Court. The law also defined the meaning of the words "malt liquors" as they occurred in Ordinance No. 9, 1847 (Ordinance for regulating the sale of wines, spirituous and fermented liquors, within the District of Natal). Thenceforth they would include ale, beer, and porter, and every similar fermented liquor of an intoxicating nature, even if no malt was used in the manufacture or brewing of these liquors.

In 1864 176 whites, 77 Indians and 22 Africans were convicted for drunkenness in the Borough of Durban. <sup>(62)</sup> The total number of cases of drunkenness (275) meant that this particular crime was the most serious for 1864, ahead of misconduct in service (236), theft (109) and assault (77). Drunkenness accounted for an extraordinary 33.6% of all crimes committed in the borough. Drunkenness was most rife among members of the white population: eight times more whites were convicted than Africans, while twice as many whites as Indians were found guilty. When the relative size of each population group is taken into account, it is found that 33.3% of Indians were found guilty of drunkenness, 5.8% of whites and only 1.6% of Africans. The statistics indicate that by 1864 drunkenness in the Borough of Durban was reaching levels which called for some sort of corrective action. Up until this time, however, liquor legislation appears to have been aimed in the wrong direction, with the possible exception of Law No. 23 of 1863. Although white drunkards contributed the majority of cases (176 convictions) and Indian drunkards constituted a far greater

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<sup>61</sup>. Ibid. Ordinance No. 9 of 1847, and No. 3 of 1853 dealt with licenses. Part of this Law repealed clause 30 of Ordinance No. 9, 1847.

<sup>62</sup>. MM, Dbn, 1864. Figures for previous years are not available.

proportion of their population than those from the other population groups, none of the liquor laws had been aimed specifically at these two groups. Instead, the 'problem' of African drunkenness had already been addressed on three occasions, through Ordinance No. 4 of 1856 (directly), Law No. 18 of 1863 (directly) and Law No. 23 of 1863 (indirectly). Clearly, these legal enactments were intended, not to reform the moral condition of Natal's African people, but as mechanisms of control over a large African population which was perceived by whites as a threat to their authority in the region. The table below reflects the foregoing scenario:-

Convictions for Drunkenness in the Borough of Durban (1864) <sup>(63)</sup>

	<u>Convictions</u>	<u>Population</u>	<u>% Convicted</u>
Whites	176	3 023	5.8
Indians	77	231	33.3
Africans	22	1 384	1.6
	(275)	(4 638)	(5.9)

In Pietermaritzburg the Resident Magistrate criticised the Town Council for increasing their revenue by issuing a larger number of licenses for the sale of intoxicating liquor than was necessary. He said that the cases before him showed the injurious effects of this system; previously licensed houses had been confined to a locality where they could be overlooked by the town's meagre police force. In his opinion, there was no barbarism or heathenism in Natal to equal "the system of demoralization that has grown up in civilized society of licensing places that become the nurseries of crime." <sup>(64)</sup>

The criminal statistics for 1865 reveal a very similar state of affairs. In that year 205 whites, 84 Indians, and 67 Africans were convicted for drunkenness. Drunkenness (356 cases) was still by far the most prolific crime in the borough, ahead of misconduct in service (248), theft (179), contravention of the bye-laws (168) and assault (98). Drunkenness accounted for 29.2% of crime in the borough. While

<sup>63</sup>. This table is flawed in the sense that it assumes that each person was only convicted once on the charge of drunkenness. In addition, it does not make allowance for those people from outside the borough (probably a very small proportion of the total convictions), who were convicted of drunkenness within the borough. For example, Africans from locations outside the borough, such as Umlazi and Inanda, togt workers and even Africans who were visiting Durban for the day committed crimes within the Borough of Durban. Nevertheless, the table does provide general guidelines as to the incidence of drunkenness among the various population groups. MM, Dbn, 1864.

<sup>64</sup>. NW, 5 April 1864.

whites were still by far the worst offenders, and the figures for all groups increased between 1864 and 1865, the convictions for African drunkenness increased three-fold, suggesting that they were becoming increasingly fond of the "white man's drink", and that police and magistrates were determined to crack down on African drunkenness. As one advances through the colonial period, it is clear that Africans became more addicted to the vices of the white man and were the victims of increasingly closer scrutiny by colonists generally and white legislators, magistrates and the police in particular. Considering the relative strengths of each population group, 29.2% of Indians were found guilty of drunkenness, 5.9% of whites and 4.4% of Africans. The Mayor noted that many complaints had been made to the Town Council that Indians left their employers' homes in the evening for the purpose of drinking. As a result, the police had been ordered to apprehend any Indians out after sunset without passes. This had had a "very salutary effect".<sup>(65)</sup>

By 1866 drunkenness was firmly entrenched as the most prolific 'crime' in the Borough of Maritzburg, constituting 47% of the total municipal police cases.<sup>(66)</sup> As in Durban, members of the white population were the most frequent offenders, but it was the increasing incidence of African drunkenness which provoked the anxiety of the town's white residents. The hottentot population, in particular, appeared to be submitting to the ravages of drink. The table below reflects the number of convictions for drunkenness and disturbing the peace in the Borough of Pietermaritzburg during the period 1862-6:-

Convictions for Drunkenness in the Borough of  
Pietermaritzburg  
(1862-1866)

	<u>Whites</u>	<u>Hottentots</u>	<u>Africans</u>	<u>Indians</u>	<u>Total</u>
1862	32	18	5	0	55
1863	48	25	8	0	81
1864	57	40	27	0	124
1865	94	45	15	10	164
1866	143	91	38	23	295
	(374)	(219)	(93)	(33)	(719)

<sup>(67)</sup>

The usual punishment for drunkenness in the 1860s was a fine of 2s. 6d. or 5s., depending on the seriousness of the charge. Sometimes the judge prescribed an alternative punishment of one or two day's imprisonment, with hard labour. White

<sup>65</sup>. MM, Dbn, 1865.

<sup>66</sup>. MM, Pmb, 1866.

<sup>67</sup>. MM, Pmb, 1862-1866.

women, however, might find themselves facing an even harsher penalty. Mary Morgan, an English woman, was charged with being found in Dr. Schulz's stable in a "very drunk" state and was sentenced to pay a fine of 20/ to the Queen or be imprisoned for a month. <sup>(68)</sup> Moses, an Indian, and Marimuti, an Indian women, who were found with her, but were in a state of sobriety, were discharged. White society believed that whites had a responsibility to provide a good example for the upliftment of the 'inferior' African and Indian cultures. Coupled to this was the belief that Africans and Indians would lose respect for the white man if they saw that there were chinks in his moral armour. White women, in particular, were supposed to personify all that was pure in the Victorian culture, so that bad behaviour on their part was considered to be even more damaging to the aura of respectability surrounding the 'superior' Victorian culture. In short, the Mary Morgans of Natal could not be tolerated and were ostracised by the self-proclaimed respectable element of white society. The fact that Mary Morgan was found drunk with people of colour meant that she would have been branded as a scoundrel and a woman totally lacking in moral fibre.

While the majority of Natal's white population opposed and feared the opening of the liquor trade to Africans, there were some who were in favour of such a move. One correspondent to the Natal Mercury, pointed out that the revenue of the colony would benefit substantially and that a great deal "of our money would be returned to us." <sup>(69)</sup> Interestingly, the editors of the Natal Mercury expressed their disapproval of this idea. The question of the involvement of Africans in the white money economy was a contentious and often painful one for the white settlers. White traders and businessmen, aware of the magnitude of the colony's African population, welcomed increased participation in the economy. As Africans were drawn into the money economy through mechanisms like the hut-tax, so they became purchasers of European articles and consumer goods. But when it came to the purchase of European liquors, the white settlers were confronted by a frustrating dilemma; if the liquor trade was thrown open to Africans, this would mean a tremendous boost to both the pockets of the canteen-owners and the coffers of the Colonial Treasury. But it would also, in the perception of the white residents, lead to increased levels of African crime and insubordination, thus placing the political, economic and social dominance of the white man at risk. The priority of control meant that for the entire duration of the colonial period whites resisted the material lures of an open trade policy.

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<sup>68</sup>. NM, 26 April 1866.

<sup>69</sup>. NM, 31 July 1866.

In 1867 the campaign against canteen-keepers who sold liquor to Africans began to gain momentum and several were brought before the courts for contravening the law. The penalties imposed on the guilty parties varied widely, depending on the gravity of the offence. For example, Henry Gordge, a canteen-keeper from Congella, was fined 10s. for selling a bottle of ale to an African named Tamboosa, while John Mortimer was fined £4 for selling 9d. worth of rum to a man called Bangwana on a Sunday evening. <sup>(70)</sup> Spirituous liquor was perceived as having a far more demoralizing effect on the African than beer, hence the handing down of a more severe penalty. African drunkenness on a Sunday was also seen as being more serious than on any other day, since it interfered with the recreational time of Natal's 'foremost' inhabitants, the white settler population. In the latter case, the judge expressed his belief that a great deal of spirits was sold daily and hourly to Africans by canteen-keepers in Durban. Indeed, he regarded it as common practice. In Pietermaritzburg too, judges were cracking down on canteen-keepers, one such man being fined £10 or six weeks' imprisonment for selling liquor to an African. <sup>(71)</sup> The Natal Mercury remarked that "it is to be hoped that this traffic with natives will on every practical occasion be visited with the heaviest penalty of the law. The natives are demoralised enough without any liquor being supplied to them." <sup>(72)</sup> It was not so much the demoralisation of the African population which was of concern to the white settlers, but rather the effects of that process on the safety and material interests of the settlers themselves.

Drinkers were consuming not only imported spirits, but also locally produced spirits; rum and other kinds of spirits were distilled on the coast, while gin and peach brandy were produced up-country. It was believed that "Umhlali" and other strong waters made on the sugar plantations found their way far into the interior, where smousers or traders sold them under foreign names, and where canteen-keepers retailed them, generously diluted, as gin or brandy, to customers who were "not sober enough to tell the difference." <sup>(73)</sup> By 1867 there was a distillery at Isipingo in the County of Durban. The Kirby Vale sugar mill (Tugela, Victoria) had a spirit distillery, while the Oaklands Estate had a distillery apparatus for rum. The County of Alexandra also had rum distilleries. In Maritzburg there was one distillery and a brewery. The Umlaas Brewery (Ward No. 5, County of Pietermaritzburg) was yielding 670 hogsheads of beer per annum. <sup>(74)</sup> Rum exports in 1866 amounted to 1 143 gallons (5 143 litres valued at £151), a clear indication that the colony was

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<sup>70</sup>. NM, 16 March 1867.

<sup>71</sup>. NM, 19 March 1867.

<sup>72</sup>. Ibid.

<sup>73</sup>. NM, 4 June 1867.

<sup>74</sup>. NBB, Vol. 1, 1867. A hogshead is 52.5 imperial gallons or 236 litres.

producing more than enough rum for local consumption. In addition, liquor imports totalled 105 814 gallons (476 163 litres valued at more than £17 121) by 1868. At this time Natal's white and Indian populations could acquire beer and a variety of spirits in any quantity they desired. Although Africans were prohibited access to European liquor through legislative action, in practice they were able to acquire whatever they fancied.

In 1868 the following liquor licenses were issued for the Borough of Durban:-

Wholesale wine and spirit : 12

Retail wine and spirit : 29

Wholesale colonial ale : 1

Retail colonial ale : 1 <sup>(75)</sup>

There were thus 30 different establishments in Durban where whites and Indians could legally acquire an alcoholic drink. Considering the relatively small size of the white (3 287) and Indian (729) populations, it is fair to conclude that Durban had more than its fair share of liquor outlets. Excluding the overwhelming majority of women and all the children who did not frequent these places, one is left with a maximum of about 900 white and 400 Indian men to patronise the canteens and public houses of Durban. This indicates a substantial amount of drinking by a relatively small group of subscribers.

On 14 December 1868 Shepstone, the Secretary for Native Affairs, sent a circular to the Resident Magistrates of Durban, Alexandra, Alfred, Inanda, Tugela, Pietermaritzburg, Umvoti and Upper Umkomanzi, drawing their attention to the "mischievous effects" produced upon the Africans on the coast by the practice of drinking "shimian". An African chief, through the R.M. for Verulam, had suggested that this evil could be most effectually checked by enlisting the services of the chiefs and headmen in such a manner so that it would be in their interests to render them. Accordingly, His Excellency the Supreme Chief, made the following declaration: "all Native Chiefs and Headmen having control of Tribes or communities of Natives, independent of Native Chiefs, in your County (or Division), from and after the first day of January next, [are empowered] to impose and levy a fine of Two Pounds Sterling (£2) in every case in which it shall be proved that the drink has been made by any of the people under them; one half of this fine to be retained by the chief or headman as his property, and the other half to be paid to the Government through the Magistrate." <sup>(76)</sup> The offender had the right of appeal to the magistrate from any decision of the chief or headman, provided this appeal was lodged within 30 days of

<sup>75</sup>. NM, 11 August 1868.

<sup>76</sup>. NGG, 3 July 1877.

conviction. Shepstone was cleverly making use of a traditional authority, the chief, to assist him in his task of controlling Natal's African population.

By 1869 the citizens of Durban were beginning to express their concern about what they perceived as a growing social evil, the drinking of *isishimiyana* by local Africans. This drink was allegedly made "to a great extent" by Africans who lived a short distance from Durban, and was then brought into town for sale. <sup>(77)</sup> It was also made by African servants who bought the treacle from the neighbouring sugar estates. It was supposed to be "most maddening" in its effects on the brain. This evil was allegedly spreading, there being many more cases of drunkenness amongst the Africans than previously, both in Durban and at the Point. The underlying fear was that, if it went unchecked, it would prove to be a "very fruitful source" of crime. By December 1869 a crusade had been launched against the makers of *isishimiyana* under the direction of the Resident Magistrate for Durban, Mr. Meller. Mafingo, in charge of the African constables, had been constituted a 'chief' of the district to punish those whom he found guilty of making the drink. These Africans were fined £2 each, a substantial sum of money. In two of the first three cases of this nature, the guilty Africans were attached to the Durban mission school, suggesting that Africans were fast learning the potential benefits of free enterprise!

During the early 1860s the temperance movement in Natal, following the lead of temperance activists in Europe, appeared to be alive and well as small groups of concerned individuals met to discuss and protest against the debilitating effects of drink. The Natal Mercury reported that "temperance movements gain ground in our community. Both at Durban and at Isipingo, meetings are frequently held, and very sensible effects produced. The evils of drunkenness are just as grievous in Natal as elsewhere, and the exertions of the abstainers are entitled to credit and appreciation, however we may differ as to the best way of accomplishing the desired end." <sup>(78)</sup> Indeed, the Natal Mercury regarded drinking as a habit which "threatens the social future of Natal with unspeakable evils." <sup>(79)</sup> At a meeting held at Isipingo, Dr. Seaman explained the physiological effects of alcohol upon the brain and the nervous system, stressing the tendencies to disease. Remarking upon the loss to society such evils induced in men of genius, he instanced Edgar Poe, the poet, and Mereland, the painter, as examples. He urged his colleagues to take action to "stay this huge evil in its course." <sup>(80)</sup>

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<sup>77</sup>. NM, 26 August 1869, letter to editor from Utemba.

<sup>78</sup>. NM, 7 March 1861.

<sup>79</sup>. NM, 7 Feb. 1861.

<sup>80</sup>. NM, 31 Jan. 1861.

At a meeting in May 1866 attended by a mere 30 people, the Durban Temperance Society defined its objectives as follows:-

- 1) To rescue habitual drunkards from the miserable consequences of intemperance.
- 2) To preserve the youth of the country from becoming a prey to strong drink and its attendant evils.
- 3) To induce moderate drinkers to become total abstainers. <sup>(81)</sup>

The Rev. Harman noted that one great fact was incontrovertible, viz., that from those only who called themselves moderate drinkers, all drunkards were derived. He directed attention to the following formal testimony signed by more than 200 of "our most eminent medical men", including Her Majesty's physicians:-

"We the undersigned are of opinion -

- 1) That a very large portion of human misery, including poverty, disease, and crime, is induced by the use of alcoholic or fermented liquors, as beverages.
- 2) That perfect health is compatible with total abstinence from intoxicating liquors, such as spirits, wines or beer.
- 3) That those accustomed to their use may discontinue them entirely with perfect safety, either at once, or gradually, after a short time. <sup>(82)</sup>

Rev. Harman also cited the testimony of several eminent judges as to the powerful agency of strong drink as an incentive to crime, and as to its demoralizing tendency. The following, coming as they do from such sources, are worthy of serious attention:-

Judge Coleridge - "There is scarcely a crime comes before me that is not, directly or indirectly, caused by strong drink."

Judge Alderson - "Drunkenness is the most fertile source of crime, and if it could be removed, the assizes of the country would be rendered mere nullities."

Judge Wightman - I find in every calendar that comes before me, one unfailing source, directly or indirectly, of most of the crimes that are committed - intemperance!" <sup>(83)</sup>

Rev. Harman pointed out that, according to the most reliable statistics, three-quarters of the crime and pauperism of the land, with a large proportion of the expenses of gaols, hulks, transports, police, prosecutions, poor-rates, union-houses, and lunatic asylums, might be traced to the use of strong drink. He concluded that "the effects of drinking to excess were appalling enough in the present life, but would be inconceivably worse in the life to come. The remedy proposed - total abstinence - was simple, safe, and unfailing." <sup>(84)</sup>

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<sup>81</sup>. NM, 22 May 1866.

<sup>82</sup>. Ibid.

<sup>83</sup>. Ibid.

<sup>84</sup>. Ibid.

Meetings of the Total Abstinence Society and the Durban Temperance Society were held regularly throughout the 1860s, both in Durban and Pietermaritzburg, but it is difficult to gauge the exact success of their endeavours. Society perceived them as a small group of eccentrics battling unnecessarily against impossible odds. They enjoyed limited success among the region's white residents, but failed to make any significant impression amongst any of the colony's ethnic groups. Abstinence never really gained a foothold in the colony.

Thus ended a decade in which the vice of drunkenness had become firmly established among all the population groups resident in the colony. By 1869 alcohol was being produced in two breweries and 12 distilleries scattered throughout Natal. The breweries were located in the Borough of Pietermaritzburg and the County of Pietermaritzburg, while the County of Durban (two distilleries), the Inanda Division of Victoria County (seven distilleries), the Tugela Division of Victoria County (two distilleries) and Alexandra County (one distillery) all contributed significantly to the production of beer and spirits in the region. In 1869 11 320 gallons (50 940 litres) of locally produced rum, valued at £1 364, was exported from the colony, indicating that there was more than enough rum to satisfy the domestic market. In addition to the local industry, there was also a substantial import trade being conducted in wine and spirits. In 1870 liquor imports amounted to 82 153 gallons (369 689 litres) of ale, beer and cider, 22 507 gallons (101 282 litres) of spirits and 23 545 gallons (105 953 litres) of wine. A further 341 gallons (1 535 litres) of spirits and 463 gallons (2 084 litres) of wine were imported for the specific use of the officers of Her Majesty's service. There were, therefore, sufficient supplies of beer, wine and spirits in Natal to meet the demands of both the domestic and export markets. And there were numerous legal establishments in which whites and Indians could satisfy their cravings for alcoholic drinks. The members of the African population were forced by restrictive legislation to obtain European liquor through various illegal means, such as at the back-doors of white canteens and through the medium of Indian middlemen. The following table illustrates the number of convictions for drunkenness in the Borough of Durban for the years 1864, 1865 and 1870:-<sup>(85)</sup>

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<sup>85</sup>. MM, Dbn, 1864-5, 1870. Figures for the remaining years of the 1860s are not available.

Convictions for Drunkenness in the Borough of Durban (1864-5, 1870)

	<u>White</u>	<u>Indian</u>	<u>African</u>	<u>Total Drunkenness</u>	<u>Total Offences</u>	<u>Percentage Drunkenness</u>
1864	176	77	22	275	819	33.6
1865	205	84	67	356	1 218	29.2
1870	81	52	42	175	766	22.8

The above figures indicate that drunkenness increased by 30% between 1864 and 1865, but thereafter decreased by a massive 51% by the end of 1870. Once again it is instructive to examine the state of the economy during this period in order to discern the possible reasons for the changing incidence of drunkenness. During the period 1864-5 the economy of Natal experienced renewed activity after the moderate recession of 1862-3. As people became financially more secure and even affluent, so they spent more of their hard-earned money on drink. This would explain the increase in drunkenness during a period of relative economic prosperity. Between 1866 and 1869, however, Natal suffered a severe economic depression, "one of the most severe South Africa experienced during the nineteenth century." <sup>(86)</sup> Drinkers would have found that their budgets did not allow for such copious indulgence in heavy drinking and probably amended their habits accordingly. Thus by 1870, even though the economy was reviving and even beginning to prosper, the incidence of drunkenness was still significantly lower than in 1865.

It is interesting to note that up until 1870 white drunkards were responsible for the overwhelming majority of drunkenness in the Borough of Durban, but the other races appeared to be learning the vice of drunkenness from their white masters with increasing enthusiasm. The table below illustrates this trend:-

Percentage of Total Drunkenness committed in the Borough of Durban  
by Whites, Indians and Africans

	<u>Whites</u>	<u>Indians</u>	<u>Africans</u>
1864	64	28	8
1865	57	24	19
1870	46	30	24 <sup>(87)</sup>

While the proportion of white drunkenness decreased throughout the above period, and Indian drunkenness increased only slightly, it was Durban's African population who appeared to be surrendering themselves to the vices of strong alcoholic drink to an ever increasing extent. By 1869 there were about 1 500 African men and 300 African women living and working in the Borough of Durban. Since there was little

<sup>86</sup>. C.G.W. Schumann, *op. cit.*, p. 112.

<sup>87</sup>. *MM*, Dbn, 1864-5, 1870.

pressure during the 1860s on the African agricultural sector forcing them into the urban areas, it is reasonable to conclude that the majority of Africans who left their traditional homes and moved to the 'white' towns, were not victims of "push" factors (such as pressure on the land), but were willingly attracted to the towns by various "pull" factors (such as the freedom from traditional authorities). These men and women soon felt the pressure of the dominant culture of the towns, the white Anglo-Saxon culture. Indeed, it was during this period that the disintegration of the Zulu culture began. Removed from the restrictions imposed by chiefs, parents and peer pressure, most young Zulus who came to Durban revelled in their new-found freedom and were eager to experiment with all the forbidden fruits. European liquor was just one of the many attractions which the white man's civilization appeared to offer. Whereas in traditional society youths under the age of 20 were not permitted to drink *utshwala*, in the town they could acquire a wide variety of drinks without having to answer to anyone. The strongly alcoholic European spirits would have been particularly exciting, but being more intoxicating than Zulu beer, often led to drunkenness and arrest. The new concoction *isishimiyana*, made from treacle supplied by the sugar mills, was also highly intoxicating in nature. Whereas drunkenness had been relatively rare in Zululand and generally not an offence, African drunkenness in Durban became a reality during the 1860s and was perceived by the town's white residents as a serious and growing social problem. African drunkenness constituted an increasing percentage of the total cases of drunkenness, a worrying phenomenon for white Durbanites.

It is also important to note that the majority of Indians were not traditional drinkers of European liquors. According to the report of the Wragg Commission, the population of India was mainly composed of Hindus and Moslems who, while on their native soil, seldom indulged in intoxicating liquors. The higher orders of Hindus were intensely averse to the use of any sort of intoxicating liquors. Both they and the Moslems were strictly forbidden by their religions even to touch them in any form except as medicine. While there were some Hindus, such as the lower classes of labourers and the common Madrassesees, who indulged in liquor on occasions of festivity, they were seldom habituated to its use. But like their African brothers who entered the colony from Zululand, Indian immigrants to Natal found that they had escaped from many of the traditional restrictions imposed by caste and soon took advantage of the many legal (and illicit) opportunities to acquire European liquors.

It is ironic that, although the convictions for white drunkenness far surpassed the number of Indians and Africans convicted, the white authorities and colonists focussed their attention almost exclusively on black drunkenness, conveniently ignoring the fact that white drunkenness was a social problem in itself. Although the

Indian population escaped legislative restrictions on their drinking habits during the 1860s, the African population was not so fortunate. Ordinance No. 4 of 1856 and Law No. 18 of 1863 were passed with the supposed purpose of reforming the alcoholic indulgences and therefore the moral state of the African population. But given the relatively low incidence of African drunkenness when compared with the other race groups, it is clear that the real and underlying purpose of these laws was to exercise a decisive control over the colony's African people. Although the size of Durban's African population had remained relatively constant throughout the 1860s (estimated at about 1 700 in 1869) and whites outnumbered Africans by almost two to one (1869: 3 125 whites), the white colonists feared that if they did not exercise a tight control over these people, they would destroy the peace and security of white civic life. The perceptions of whites told them that African crime and drunkenness was on the increase and threatened to engulf them at some time in the future. They were forever wary of the massive size of the colony's African population when compared to the white population and therefore took the necessary steps to control this "barbaric and heathen" majority. <sup>(88)</sup> The belief that the abuse of alcohol contributed to the perpetration of the majority of crimes prompted white legislators to seek to extinguish African drunkenness. If African drunkenness in particular and criminality generally could be kept under control or even eradicated, then the colony would be safe for the development of white interests.

It is useful to consider briefly the incidence of white, Indian and African drunkenness in relation to the population size of each race group resident in the Borough of Durban. The table below illustrates the approximate proportion of each race group convicted for drunkenness in the Borough of Durban for the years 1864, 1865 and 1870 <sup>(89)</sup> :-

Relationship between Population and Drunkenness in the Borough of Durban (1864, 1865, 1870)

	<u>Population</u>	<u>Convictions</u>	<u>Percentage Convicted</u>
1864	Africans: 1 384	22	1.6
	Whites : 3 023	176	5.8
	Indians : 231	77	33.3
1865	Africans: 1 520	67	4.4
	Whites : 3 476	205	5.9
	Indians : 288	84	29.2

<sup>88</sup>. The total population of the Colony of Natal in 1870 was 280 782. This comprised 4 858 Indians, 17 737 whites and 258 187 Africans. NBB, Vol. 1, 1870.

<sup>89</sup>. MM, Dbn, 1864-5, 1870.

1870	Africans: 1 766	42	2.4
	Whites : 3 147	81	2.6
	Indians : 668	52	7.8

The above table shows that during the 1860s a greater proportion of the Indian population was convicted for drunkenness in the Borough of Durban than the other ethnic groups. This is particularly true for the period 1864-5. But because the Indian population of the borough was very small compared to the number of whites and Africans, the high incidence of Indian drunkenness went almost unnoticed and was not considered to be a major social problem. In addition, the relatively small size of Natal's Indian population meant that the whites harboured no fears about being swamped by a wave of drunken Indian criminals. The majority of the colony's Indian population, employed as they were on the sugar plantations, were already subject to the rigid controls of the indentured labour system. For these reasons, therefore, Natal's Indian population was not perceived as a threat during the 1860s and no liquor legislation was passed to exercise any further control over them during this period.

By 1870 the incidence of drunkenness in the Borough of Durban had decreased by 50%, owing mainly to the fact that the cases of white drunkenness decreased from 205 to 81. <sup>(90)</sup> There was, however, certainly no shortage of liquor outlets in Durban with 24 wholesale wine and spirit dealers, 31 retail wine and spirit establishments and one wholesale colonial ale licensee. Only in 1874 did the level of drunkenness surpass that of 1865. In 1873 the Council found it necessary to enforce the 24th. section of Law No. 9 of 1847, with regard to the closing of canteens on Sundays. <sup>(91)</sup> This allegedly led to a decrease in the cases of disorderly conduct. In the same year the Council passed a resolution whereby hotel or canteen-keepers twice convicted of selling intoxicating liquors to Africans would not have their licenses renewed.

In Pietermaritzburg, however, drunkenness continued to increase. In his minute for 1870, the Mayor made reference to "the very great and increasing amount of crime in our population." <sup>(92)</sup> As in Durban, the Africans of Maritzburg were experiencing the full impact of the European civilization. The table below illustrates how the vice of drunkenness was increasing among all the ethnic groups of Maritzburg, but particularly among the town's African, Indian and Hottentot people. The figures are for the six month periods ending 31 March 1862, 31 March 1869 and 31 March 1870:-

<sup>90</sup>. MM, Dbn, 1870.

<sup>91</sup>. MM, Dbn, 1873.

<sup>92</sup>. MM, Pmb, 1870.

Convictions for Drunkenness in the Borough of  
Pietermaritzburg (1862, 1869, 1870)

	<u>Whites</u>	<u>Coloured</u>	<u>Total</u>
1862	68	24	92
1869	88	70	158
1870	100	80	180

The 1870s were characterised by numerous cases of white canteen-keepers being charged with selling liquor to Africans. Such canteen-keepers were regarded as "sell-outs" by fellow whites since they were helping to corrupt the noble African labourer and to create a criminal class which would threaten the peace and tranquility of white society. In moral terms, a drunken African was considered infinitely more detestable than a drunken Englishman. Indians were also involved in the illicit liquor trade to Africans. When it came to sentencing, however, the courts were far more lenient with white offenders. For example, Richard White, barman at Mr. F.L. Jonsson's at the Point, was charged with contravening Law No. 18, 1863, by having sold a pint of beer to an African named Dick. He was sentenced to pay a fine of 40s. or be imprisoned for one week.<sup>(93)</sup> An Indian by the name of Nargadoo, charged with a similar offence, was fined £1, or two weeks' hard labour<sup>(94)</sup>, while Ragaweni was fined £2 or a month's imprisonment with hard labour.<sup>(95)</sup>

White colonists continued to express their concern about African drunkenness. They believed that there was a growing necessity to place some check on this vice and in particular to prevent the desecration of the Sabbath by frequent scenes of wanton drunkenness. In July 1873 the Durban Town Council took action in this regard, by enforcing Ordinance No. 9 of 1847, thus prohibiting the sale of liquor on Sundays.<sup>(96)</sup> The town apparently looked "quiet enough, and there were no rows." The police had no cases of drunkenness to deal with. Sugar farmers pleaded for legislative action against the sale of treacle to Africans, arguing that their labour force worked unproductively on Mondays and Tuesdays in particular.<sup>(97)</sup>

The question of the sale of "kafir" beer or *utshwala* was a source of great concern to the white residents of Pietermaritzburg in the early 1870s. This beverage was sold from numerous so-called dens of iniquity on the outskirts of the city, causing many white residents to complain that these African beer-shops were fostering a love of

<sup>93</sup>. NM, 7 March 1871.

<sup>94</sup>. NM, 4 June 1874.

<sup>95</sup>. NM, 16 June 1874.

<sup>96</sup>. NM, 8 July 1873.

<sup>97</sup>. NM, 15 April 1871.

drink amongst Africans and were a disturbance to the peace and tranquility of white residential life: "Large numbers of natives congregate about these places, to the annoyance of those unfortunate enough to reside in the neighbourhood, while the language used by them is disgraceful." <sup>(98)</sup> What was particularly irksome to the city's white population was the fact that the Resident Magistrate had ruled that *utshwala* did not come under the head of intoxicating liquor, but was classified as an article of food. He therefore refused to find guilty, under the existing legislation, Africans who sold "kafir" beer. The police could only interfere when there was a direct breach of the peace. The white residents of Pietermaritzburg argued long and hard that *utshwala* was indeed an intoxicating drink, citing the story of an African policeman who had been rendered incapable after imbibing only sixpence worth of this drink. They called on the Town Council to "put a stop to what has long been a positive nuisance, and an incentive to much of the crime perpetrated in the city" and demanded that a bye-law be passed to address this evil. <sup>(99)</sup>

A correspondent to the Natal Witness drew attention to the possible cause of drunkenness among the white youth of Pietermaritzburg; since there were absolutely no places of amusement for young men and as the canteens were made as attractive as human ingenuity could devise, they naturally frequented these places as a last resort. <sup>(100)</sup> To meet this evil, the Young Men's Christian Association had been formed upon undenominational principles. By giving public lectures and cheap entertainments, by its magazine, and by its regular meetings for literary improvement in the Masonic Hall, this organization had in some measure provided a remedy to the problem. The members of the Association hoped to acquire a permanent base so that they could "carry out their project of weaning the young men of the city from the canteens and billiard-rooms" more effectively. <sup>(101)</sup> This room would be used not only for the regular meetings of the Association, but would also be furnished with a library, which, it was hoped, might be "a place of resort for young men on all evenings of the week, for conversation, amusement, and instruction." <sup>(102)</sup>

*The Colonist* claimed that much of the drinking in Maritzburg could be attributed to the fact that fathers in England sent their sons out to Natal because they had become abandoned drunkards at home. Every effort to reclaim them had probably failed and in order to avoid the disgrace of their debauches so near to home, they were sent to Natal with little money to drink themselves into the grave, or be reformed by poverty. Though the colony was not a convict settlement, it was being

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<sup>98</sup>. NW, 10 Feb. 1871.

<sup>99</sup>. Ibid.

<sup>100</sup>. NW, 15 Dec. 1876.

<sup>101</sup>. Ibid.

<sup>102</sup>. Ibid.

made a hospital for desperate cases of dipsomania: "These persons have a deplorable influence on society generally, so that sadly too many of our men and women, both young and old, are unhappily addicted to the ruinous practice of dram drinking." <sup>(103)</sup> The presence of such people in Maritzburg would account in part for the high incidence of white drunkenness in the town.

The sale of liquor was not considered to be the sole cause of lawlessness in the towns of Natal: "There is a form of vice now rearing its hideous head, which will be the fruitful cause of woes unnumbered, if the authorities choose rather to ignore it than to regulate and localise it, thus rendering it as little revolting as possible to the general public, and at the same time preventing the perpetration of acts of violence." <sup>(104)</sup> The 'crime' alluded to was the excessive congregation of Africans in what were considered to be white towns. The suggested solution was that Africans should reside in their own villages which would be situated outside the towns and which would be subject to strict police supervision. This would mean that the whites would not have to suffer and view the activities of Africans in their spare time. If Africans got drunk out of sight, this would be more acceptable to the white colonist, a case of 'out of sight, out of mind.'

In 1873 a correspondent to the Natal Mercury slammed the Natal Government for failing to carry out the laws on the statute book for preventing Africans buying intoxicating drinks:

Grog of all kinds is day by day sold to them to an alarming extent without any attempt at concealment; the law is laughed at as a dead letter that it is no one's business to enforce. As the vigilance which was once maintained has relapsed, these offences against european women have become more common, daring, and revolting. Every road out of town is now a continued terror to women and a disgust to men by the presence of drunken savages. Residents a few miles from town are lately finding that their native messengers often return drunk - money lost and property injured. <sup>(105)</sup>

By 1873, despite a "searching crusade" <sup>(106)</sup> by the police to prevent Africans from entering canteens to drink, African ingenuity appeared to be coming out on top; Africans were sending Indians into the canteens to procure rum for them, paying an extra three pence and a "swig" at the bottle for the trouble. Outside the towns, in the African locations, the situation appeared to be equally bleak for the guardians of

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<sup>103</sup> . NW, 9 May 1871.

<sup>104</sup> . NM, 19 March 1872.

<sup>105</sup> . NM, 5 June 1873.

<sup>106</sup> . NM, 24 July 1873.

white society and African morality; Africans were allegedly imbibing *isishimiyana* to an alarming extent. A correspondent to the Natal Mercury described in dramatic terms the alleged dangers of this drink:

It undermines the whole system with awful rapidity, emaciates the body, and utterly debases the mind, deadens all moral principle, converts its victim into a hopeless liar, renders him quarrelsome and dangerous even beyond the power of rum - our colonial curse - and unless stopped terminates in insanity of the most appalling description. And this demon is marching through the country with ruin in its train. It is utterly demoralizing one of the finest native races in the world, desolating their homes and ruining their stamina, and constantly turning hundreds of peaceful kraals into scenes of debauchery, fighting, and bloodshed. <sup>(107)</sup>

In 1874 the Council resolved that one conviction during the corporate year for selling liquor to Africans would in future be sufficient reason for the Council to refuse a liquor license for a public house, canteen or hotel. <sup>(108)</sup> This action reportedly placed a check on contraventions of Law No. 18 of 1863, i.e. the sale of liquor to Africans. In 1876, in a case brought before the Resident Magistrate, Mr. Titren, he intimated that in future, where persons were charged with selling spirits to Africans, he would firstly inflict a very heavy penalty, and for a second offence send the seller to prison without the option of a fine. <sup>(109)</sup>

By the mid 1870s the towns of Durban and Pietermaritzburg had developed to the point where it was considered necessary to pass a set of bye-laws for each area. These were duly passed in 1874 (Pietermaritzburg) and 1875 (Durban), and reflected quite clearly the concern of administrators about the liquor question. In fact, liquor licenses dominated the bye-laws of both towns as an attempt was made to tighten the regulations governing the sale of alcohol. The following bye-laws for Pietermaritzburg are of particular interest since they reveal that the question of control, principally control over the black population, remained a fundamental factor in white thinking:-

100 - Mentions the various types of licenses, including "places for the sale of *utywala* or Kafir beer, within the Borough."

102 - "The holder of a License to sell Wines, Spirits, and Beer, by retail, shall sell Wines, Spirituous Liquors, and Beer, in quantities not exceeding two gallons, to be consumed on or off the premises for which said license be granted." (Durban made no such provision.)

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<sup>107</sup>. NM, 11 March 1873.

<sup>108</sup>. MM, Dbn, 1874.

<sup>109</sup>. NM, 25 May 1876.

103 - No liquor was allowed to be sold by the holder of a license to sell wines, spirits and beer between the hours of 9 p.m. and 6 a.m. on weekdays, or during any part of Sunday, except between the hours of 1 p.m. and 2 p.m.. (In Durban, public houses were closed between the hours of 11 p.m. and 6 a.m. weekdays, and were not permitted to open on Sundays at all.)

104 - "The holder of a License to sell Wines, Spirituous Liquors, and Beer, by retail, shall not allow, nor suffer to be allowed, gambling, tippling, rioting, or any conduct tending to subvert peace and good order, on the premises for which said License be granted." (Durban did not mention this.)

107 - The holder of a Club License was permitted to sell liquor to members of the Club at any hour or time.

110 - The holder of an Hotel License was allowed to sell liquor, in quantities of not more than two gallons, to travellers and *bona fide* lodgers, provided it was consumed on the premises.

111 - The holder of an Hotel License would not allow gambling, tippling, rioting, or any other unseemly conduct, tending to the subversion of peace, good order and morality. An Hotel might be kept open at any hour or time for the accommodation of travellers or *bona fide* lodgers.

112 - The holder of an Hotel License was responsible for the peace, good order and regularity of the Hotel and was not permitted to obstruct a Police Officer who wished to enter the hotel in the lawful performance of his duty. <sup>(110)</sup>

The bye-laws for the Borough of Durban, published in 1875, laid down the various license duties which were required to be paid for the different categories of license:-

Wholesale Wine and Spirit	£30.
Hotel	£30.
Public House	£30.
Hotel and Public House	£45.
Wholesale Colonial Ale	£15.
Retail Colonial Ale	£7.
Lodging or Eating House	£2.10.

The intention of the authorities was to impose heavy license duties on liquor outlets in order to impress upon them the responsibility of their position. It is interesting to note that, whereas Pietermaritzburg did not mention the sale of liquor to Africans in their bye-laws, this question was well covered in Durban's bye-laws for 1875:-

102 - "No person shall sell, barter, or otherwise supply to any native any brandy, gin, rum, or any other spirituous liquors, nor any wine, nor any ale, beer, porter, nor any fermented liquor of an intoxicating nature, nor any mixed liquor containing any

<sup>110</sup>. NGG, 10 March 1874.

intoxicating, spirituous, or fermented liquors, and upon any licensed person contravening this section and being twice convicted, application shall be made to the Resident Magistrate to suspend or cancel the license." <sup>(111)</sup>

Durban also tried to legislate against the question of drunkenness in the borough, no doubt in the belief that Africans were primarily responsible for this disturbing trend:- <sup>(112)</sup>

110 - "Every person found in any public place within the Borough drunk and lying down from the effect of intoxication, and incapable of taking care of himself or herself, may be taken into custody, shall be deemed to have contravened this bye-law and be subject to the fines and penalties under the 26th. Section of the Ordinance No. 9 of 1847." <sup>(113)</sup>

In terms of bye-law No. 103 it was laid down that "Each licensee shall be held responsible to the Council for the respectability of his establishment." The bye-laws cracked down hard on licensees who contravened the law, bye-law No. 101 stating that "Every licensee shall be liable to immediate suspension by the vote of the Council in the case of any breach of such regulations or of any Ordinance or Statute regulating licenses houses." <sup>(114)</sup>

By 1875 there were still numerous places in the Borough of Durban where a man might lay his hands on a drink. The number of retail wine and spirit licenses had decreased slightly since 1868, but the number of wholesale wine and spirit licenses had increased significantly. The following licenses were granted by the Council in that year:-

Wholesale wine and spirit	26
Retail wine and spirit	26
Wholesale colonial ale	1
Lodging and eating house	23

The colony's newspapers continued to be littered with cases of drunkenness and of selling liquor to Africans. Indians were the primary culprits in this illicit trade with Natal's thirsty African population. For example, Sammy was fined £5 or 14 days' imprisonment with hard labour <sup>(115)</sup>; Sheck Hassan was fined 20s. or 14 days' with

<sup>111</sup>. NGG, 2 March 1875.

<sup>112</sup>. In 1875 136 whites, 122 Indians and 85 Africans were convicted for drunkenness in the Borough of Durban. MM, Dbn, 1875.

<sup>113</sup>. MM, Dbn, 1875.

<sup>114</sup>. Ibid.

<sup>115</sup>. NM, 9 Sept. 1875.

hard labour (<sup>116</sup>); Ammanally, a very old offender, was sentenced to pay a fine of £2 or be imprisoned for six weeks. (<sup>117</sup>) Hottentots and coloureds were also involved in this business and received similar penalties for their troubles; for example, Sophia Maggot was fined 20s. (<sup>118</sup>), while Johannes Samnel was sentenced to pay a fine of £2 or be imprisoned for seven days with hard labour. (<sup>119</sup>) In addition, white canteen-keepers were ever aware that additional revenue could be gathered at the back-door, but these people were not always brought to justice, either because of the difficulties of detection, or because the police were too busy hunting down the supposed 'real' culprits, namely the colony's black population. Those who were caught received the usual penalty; for example, John McDonald was fined £2 10s. with the option of six weeks' imprisonment. (<sup>120</sup>) In terms of section 4 of Law No. 18 of 1863, the Town Clerk was empowered to prosecute in cases of this description and any fine inflicted for such an offence committed within a borough would be paid into the corporate funds of that borough. This served as a financial inducement to boroughs to crack down hard on those who sold liquor to Africans. Inducements were also held out to individuals who gave information leading to the conviction of an offender; magistrates could award any portion of the fine imposed, not exceeding one-half, to the informant.

The opening of several new distilleries in the mid-1870s led to an increase in the production of rum, leading inevitably to a reduction in the price of this spirit. By 1875 the going price was from 1/6 to 1/9 per gallon, meaning that it was more easily affordable and that people were likely to imbibe even further to their heart's content, with the likely consequence of increased drunkenness. (<sup>121</sup>) One correspondent to the Natal Mercury alleged that the illicit sale of rum to Africans was taking place not only in the licensed houses, but also at the "country kafir stores" where in many cases a large trade in rum was being perpetuated. He estimated that if this was allowed to continue for a year or two, 500 police would not suffice to put a stop to it. In his opinion, the law was a perfect farce, magistrates not having sufficient police at their disposal, and in few cases the disposition to enforce it. (<sup>122</sup>) Another store-keeper complained bitterly that those who did not defile themselves in this dirty trade were very much injured by the disgraceful competition of those who did. (<sup>123</sup>) He claimed that at his store at Ifafa, he was frequently molested by drunken Africans

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<sup>116</sup>. NM, 6 Nov. 1875.

<sup>117</sup>. NM, 30 March 1876.

<sup>118</sup>. NM, 6 Nov. 1875.

<sup>119</sup>. NM, 1 Feb. 1876.

<sup>120</sup>. NM, 6 April 1876.

<sup>121</sup>. NM, 2 Oct. 1875.

<sup>122</sup>. NM, 2 March 1876.

<sup>123</sup>. NM, 26 August 1876.

and almost daily Africans came to his store asking for rum in a bold and provoking manner, even though they knew there was none.

The police force was forever crusading against these illegal rum sellers. An Indian constable, by the name of Bob, was reported to have made several important captures. Described as "zealous and keen-sighted", he ran in Scheepers, the notorious hangman, and three other illicit merchants within a single week. <sup>(124)</sup> The magistrate in Durban, determined to stamp out this "nefarious" traffic, imposed the severe fine of £5 on each of these offenders, or an alternative of six weeks in prison. There were reportedly two or three rum smugglers before the magistrate every day during July of 1876. <sup>(125)</sup>

A correspondent to the Natal Mercury outlined the dangers of selling both rum and treacle to Africans, dangers which were accruing to the African and white residents of Natal alike. In his opinion, the unlimited sale of intoxicating liquors to Africans was bringing about "a marked change in the character of the animal, certainly not for the better." <sup>(126)</sup> He believed that as Africans were "naturally lazy and imbued with a gluttonous propensity for strong drinks" <sup>(127)</sup>, a determined check should be put upon their obtaining liquor of any kind. The sale of treacle should also be prohibited to the African since a "most injurious, intoxicating and disgusting drink" <sup>(128)</sup> was brewed therefrom, namely *sepapanana* or *isithumiana*. <sup>(129)</sup> In his experience, African men and women indulged freely in this drink, "whose powerful effect takes a strong hold upon their constitutions and unfits them for work, as may be seen in the neglected state of their gardens, and their utter dislike to settle down to steady employment under their white masters." <sup>(130)</sup> With the unrestricted sale of rum and treacle, evils allegedly accumulated, culminating in "abject indolence, theft, outrages, and frequent bloodshed." <sup>(131)</sup> The writer complained that Africans did not work as formerly, that is prior to the introduction of treacle, when labour was abundant and much cheaper. Instead, they now desired to roam about the country from homestead to homestead, indulging freely in *sepapanana*; drunkenness had allegedly become "their delight". <sup>(132)</sup> Resident at Isipingo, this correspondent was probably a sugar farmer, concerned about the efficacy of his labour force. He portrays the typical white colonial attitude towards African drunkenness, viz. African

<sup>124</sup> . cited in NW, 2 June 1876.

<sup>125</sup> . cited in NW, 11 July 1876.

<sup>126</sup> . NM, 13 April 1876.

<sup>127</sup> . Ibid.

<sup>128</sup> . Ibid.

<sup>129</sup> . Alternative names for *isishimiyana*.

<sup>130</sup> . NM, 13 April 1876.

<sup>131</sup> . Ibid.

<sup>132</sup> . Ibid.

drunkenness was only perceived as a problem in that it threatened the prosperity of the colonial economy and the fabric of white Victorian society. Like most correspondents to the colonial press, this writer recommended the age-old solutions to the 'problem' of African drunkenness, namely the issue of stringent orders to the chiefs, the institution of police patrols on an organized system, under the control of the magistrates, and the infliction of severe punishments on the sellers of rum and treacle. No attempt was made to address the roots of drunkenness.

Several white residents complained bitterly about the situation on the Bluff, alleging that scenes of depravity were taking place daily and that grog was being sold to Africans quite openly, many of whom travelled in some distance from the country in order to obtain it. <sup>(133)</sup> They claimed that on Mr. Byrne's land some two or three miles from New Brighton, a notorious group of Africans was living where they were absolute pests to the white neighbourhood. Their abodes were described as "haunts of vice and receptacles of stolen property, to the annoyance and injury of their fellow colonists." <sup>(134)</sup> These residents called for the establishment of a suburban police force to protect their lives and property.

Bellair also appeared to be suffering from "kafir depravity". Complaints were made that drunken Africans and Indians produced disgraceful scenes on the roads on Sundays in particular. The opening of two new grog shops in the area in 1876 had apparently worsened an intolerable situation, with bottles of alcohol being removed from the premises. One resident claimed that there had been more drunkenness in the Bellair area in the past three months than for the previous 15 years. <sup>(135)</sup>

In Pietermaritzburg too, it was considered that there were far too many canteens considering the size of the population. In a well-argued editorial, the editor of the Natal Witness presented the following scenario for contemplation. <sup>(136)</sup>

Pietermaritzburg was a city which contained, according to the previous census, a population of 3 250 whites. Of these, approximately 650 were computed to be adult males. 400 of these adult men were members of the Good Templars, while there was also a total of 30 bishops, clergymen, catechists, sacristans and dissenting ministers. In addition, there were about 16 school-masters, who were regarded as respectable and sober members of the community. For the supply of drink to this scanty population, there were 20 canteens or places where liquor might be sold. Excluding all the above categories, who presumably did not drink, this left only 234

<sup>133</sup>. NM, 25 July 1876.

<sup>134</sup> NM, 1 August 1876.

<sup>135</sup>. NM, 31 Oct. 1876.

<sup>136</sup>. NW, 8 Dec. 1876.

men to support the 20 canteens, or about eleven and three-quarter men to each canteen. There were also some 700 soldiers resident in the town, but they were "obliged by military rule to be sober, and their earnings are not such as enable them, even if willing, to afford a patronage which should make any appreciable difference in the maintenance of the twenty canteens." (<sup>137</sup>) It was also necessary to make allowance for casual visitors and passengers travelling through the city, which probably raised the number of drinkers, in the humble estimation of the editor, to about 300. In his opinion, the above situation meant that there was always a minimum of 234 male adults in a continual state of intoxication in Pietermaritzburg. The editor reached the rather bizarre conclusion that "it is a painful fact to reflect upon that the number of canteens in the city afford conclusive proof that every man who is not a Good Templar or engaged in public worship or in teaching must be a daily drunkard." (<sup>138</sup>) While this statement is obviously an exaggeration, it does indicate that white public drunkenness was prevalent in Pietermaritzburg and that the guardians of sobriety perceived it as a very worrying problem indeed. The vicinity of Baldwin's canteen in Berg Street was reported to be the scene of frequent, drunken disturbances.

As the populations of the towns increased, so residents complained increasingly about public nuisances and disturbers of the peace. These nuisances were usually black, but not as a rule. For example, a resident at the West End of Durban complained bitterly about white drunks monopolising the pathways and the continual brawlings and rows of these men and women. These drunks allegedly frequented the "European", otherwise known as "Knox's Canteen", and engaged in "savage fighting" in the street on their way home, forcing peacefully inclined persons to avoid this corner and take a back street. (<sup>139</sup>)

On 7 June 1877 the Lieutenant-Governor, Sir Henry Bulwer, opening a session of the Legislative Council, stated that his attention had been directed to the illicit sale of intoxicating liquor and the increase of habits of drunkenness amongst the African population. A substantial body of evidence on the subject had been gathered from various Resident Magistrates and Administrators of Native Law, and Bulwer hoped that some means could be devised to check "an evil, so lamentable in itself, and so mischievous in its consequences." (<sup>140</sup>) These returns provide a plethora of detailed

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<sup>137</sup>. Ibid.

<sup>138</sup>. Ibid.

<sup>139</sup>. NM, 19 July 1877.

<sup>140</sup>. LC, cited in NM, 8 June 1877.

evidence and opinions on a subject which was beginning to occupy the attention of colonists and administrators alike to an ever increasing extent. <sup>(141)</sup>

R.I. Finnemore, the Acting R.M. for the City Division of Pietermaritzburg, reported that during the year 1876 a total of 44 retail liquor licenses were granted, comprising the following:-

retail wine and spirit shops - 6  
 public houses - 17  
 kafir-beer houses - 12  
 hotels - 9

In addition to these, 14 wholesale licenses to sell wines and spirits, and 2 club licenses had been granted. But of the 14 wholesale dealers, 3 were included amongst retail dealers and 2 amongst keepers of public houses.

At the 12 "kafir-beer" houses in the City, Africans could lawfully purchase and drink *utshwala*. In addition, they could readily obtain spirituous liquors at the numerous canteens in the city, in spite of the prohibitory law. Finnemore submitted evidence from William Jones, the Native Interpreter, and Thomas Joyce, the Superintendent of Police for Maritzburg, to support his claim. As interpreter to the City Division since 1873, Jones had had ample opportunity to observe the operation of Law 18, 1863, in Pietermaritzburg. Considering the number of Africans in the City, he believed that the amount of drunkenness amongst them was "not great", since Africans as a rule did not drink "whiteman's drink". He submitted, however, that the number of Africans who did consume European liquor had "much increased of late". They found it "an easy matter" to get liquor from any canteen, either by themselves personally or through the medium of Hottentots. He claimed to know of "more than one instance" where an African had during the course of one day frequently bought liquor from a canteen and had retailed it at a profit to other Africans. But these cases had never come before the magistrate as the persons cognisant would not come forward to inform. Africans who were charged with drunkenness refused to state where they had obtained the drink. Jones contended that the offenders might be discovered if "Native detectives" were employed to watch not only the canteens, but the "Hottentots and others" who allegedly retailed the drink. <sup>(142)</sup>

Joyce confirmed that the practice of supplying spirituous liquors to Africans in the City was "very prevalent". He considered that the practice was on the increase owing principally to the fact that the licensed dealers had "recourse to subterfuge" in

<sup>141</sup>. Only the reports from Pietermaritzburg and Durban are dealt with here. For a more detailed exposition, see NGG, 3 July 1877.

<sup>142</sup>. NGG, 3 July 1877.

order to save themselves from prosecution. (<sup>143</sup>) Canteen-keepers invariably chose a Hottentot or Indian, or some white person, to act as a medium in effecting the sale of liquor to Africans. In his opinion, Africans and Hottentots did not on their own account retail drink to Africans, except when they acted as "go-betweens" in order to derive a certain profit. This profit was paid for by the recipient of the liquor. For example, an African would pay a Hottentot a shilling for a bottle of rum, which only cost the Hottentot ninepence. The instances of detection had been very few recently. On several occasions he had sent Africans as detectives into canteens to purchase rum, but they had only succeeded in one or two instances.

In Joyce's opinion, there was a great deal of drunkenness amongst Africans in Maritzburg and many of the police cases brought before the Magistrate daily were attributable to drink. When an African bought a bottle of rum, he consumed it immediately so that it would not be found in his possession. He considered that if they were allowed to purchase drink, they would do so with greater regularity, but in more moderate quantities. Every day Africans were seen going in numbers to canteens. The only solution he could suggest was that Africans should be banned from frequenting canteens and that any African found on the premises of a canteen should be punished unless he could show some lawful cause for being there. Joyce also favoured the amendment of the law regarding drunkenness. He believed that a man, whether white or black, should be punished for being drunk anywhere. At that time, drunkenness was only a punishable offence when the accused was found lying down in some public place from the effects of intoxication.

According to Joyce, the twelve licensed "Kafir-beer" houses in the city were under police supervision and there were seldom cases of drunkenness arising from these houses. "Kafir-beer" was not so intoxicating and served as food as well as drink for the Africans. A large quantity would have to be imbibed to make a man drunk. He did not think that these beer-houses were used for the unlawful sale of spirits. His only objection was that several Africans congregated at these places and resisted the police when interfered with. Joyce drew attention to the fact that it was most important to consider how many wine and spirit establishments were sufficient to accommodate the community of Maritzburg. If there were more such establishments than could subsist on a legitimate trade, men would resort to unlawful means in order to forge a living.

Finnemore reported that drunkenness and the use of intoxicating liquors amongst the African population of the city was "gradually increasing", although they had not yet obtained such a degree as to seriously affect the public peace or to afford any

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<sup>143</sup>. Ibid.

ground for alarm. Like Joyce, he believed that a considerable proportion of African police cases arose from the effects of drink. In his opinion, this spread of intemperance originated, to a large extent, in the establishment of so many rival canteens. Although, *prima facie*, it appeared to be in the interests of everybody to arrest, or at least to diminish this evil, he considered it "notorious" that the law prohibiting the supply of drink to Africans was "daily violated with impunity". Like Joyce, Finnemore believed that the number of canteens and other similar places in the city was "greatly in excess" of the legitimate requirements of the inhabitants. <sup>(144)</sup> The existence of so many places for the sale of drink necessarily lessened the legitimate business of each, thus increasing the temptation to resort to illicit trade. Although drink might be sold without a license if the number of licensed places was reduced, it would be easier to detect offences by unlicensed persons. Canteen-keepers did not inform against each other, but, on the contrary, tended to protect one another from detection.

Finnemore was of the opinion that the existing law, if properly enforced, was sufficient to check the illicit trade. While acknowledging that the total suppression of the illicit sale of liquor to Africans was "practically impossible", he made four suggestions as to how it could be restricted:-

- 1) The number of canteens should be greatly reduced and the charge for a license should be increased.
- 2) When granting licenses more care should be exercised in ascertaining the characters of the applicants. This would mean that the temptation on the part of canteen-keepers to unlawful traffic in spirits would become less and a license would become too valuable for the holder to risk its loss by illicit trade.
- 3) Detectives or Special Police should be employed, as in the case of the Togat Regulations, to watch canteens and suspected persons, and to bring offenders to justice.
- 4) Magistrates should be encouraged to use their power to suspend or cancel the license of an offender. <sup>(145)</sup>

Finnemore opposed the suggestion by the Superintendent of Police that it should become a criminal offence for an African to frequent a canteen, since many whites employed their African servants to go to hotels and other similar places on lawful business. The course of action suggested by Finnemore would necessarily involve a pecuniary loss to the Corporation: there would be a falling-off in the revenue derived from licenses and the expected drop in crime would result in a

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<sup>144</sup>. Ibid.

<sup>145</sup>. Ibid.

corresponding diminution in fines. But a full exchequer and a drunken population were concomitants which any society could do without.

Throughout the colonial period legislators and administrators wrestled with man's eternal dilemma of money versus morals. Legislation and law enforcement designed to clean up society and reduce the criminal element always meant a reduction in desperately-needed revenue. Duties on excise (liquor) contributed significantly to colonial funds, while fines from liquor-related offences brought more into colonial coffers than any other crime. <sup>(146)</sup> For the Colony of Natal it was a fact of life that liquor was of great pecuniary importance, but it was also a fact that it caused the colony a great deal of trouble. In Finnemore's words, "whilst we encourage one important source of the city revenue, the golden eggs may prove to have cost us more than they are worth." <sup>(147)</sup>

Richard Alexander, the Superintendent of Police for Durban, reported that there were 22 licensed houses in the Borough of Durban. These were located as follows:

in Town - 16  
at the Point - 3  
on the Berea - 1  
Umgeni Village - 1  
Congella - 1

Thus the number of licensed houses in Maritzburg was double that of Durban (44 compared to 22). Maritzburg's white male population of about 1 400 men enjoyed access to 32 retail liquor outlets, while the 3 000 African men who were in the town each day had 12 "kafir-beer" houses at which they could slake their thirst. In comparison, the 1 443 white men of Durban could choose from 22 different licensed houses, while Durban's African population (approximately 2 903) did not enjoy access to licensed establishments and was forced to rely upon the illicit trade.

Alexander produced a return showing that during the previous 12 months (Sept. 1875 - Aug. 1876), only 52 Africans had been apprehended for drunkenness. This was out of a total African population in the borough of about 2 900. The 52 offenders were fined a total of £15.12.6., an average of 6s. each. During the same 12 month period, 52 persons had been apprehended for supplying Africans with liquor, 31 of these during the previous three and a half months. This suggests that Durban was cracking-down hard on people who sold liquor to members of the

<sup>146</sup>. In 1875, for example, excise contributed £8 666 out of the total revenue for the colony of £260 271. Excise ranked ninth out of 26 heads of revenue. NBB, Vol. 1, 1875.

<sup>147</sup>. NGG, 3 July 1877.

African population. These offenders had been fined a total of £179, an average of £3 11s. 5d. (excluding two cases where the offenders were each fined only 5s. for supplying one glass of liquor each.) It is interesting to note the break-down of offenders as per ethnic group:-

Indians - 31	
Whites - 5	
Hottentots - 10	
Africans - 2	
St.Helena - 2	
Chinese - 1	
Portuguese - 1	TOTAL: 52.

There was no discrimination between the races with regard to the severity of the fines imposed.

Since their arrival in the colony, Indians had displayed considerable business acumen and proved themselves to be highly competitive in the market place. Even when it came to 'illegal' business, such as supplying Africans with liquor, they showed a sharp eye for the opportunity of profit. This is not to suggest that most Indians were involved in illegal trafficking - far from it. In the twelve month period under review, only 2-4% of Durban's Indian population was apprehended under this offence. <sup>(148)</sup>

Alexander believed that he now had the situation under control. The R.M. had increased the fines to put a stop to this evil and the police were constantly on the alert. African police were being used to purchase liquor in order to trap offenders. According to Alexander, the result was that Indians were now so frightened of being detected that they brought the money to him under the impression that the applicant was a policeman in disguise. Outside the borough, however, liquor was allegedly supplied to Africans "with impunity". <sup>(149)</sup>

For Alexander "the greatest evil" he had to contend with in carrying out this law was the facility with which Africans could obtain liquor from any canteen by merely producing a note on a small scrap of paper. This note might read something like, "Give bearer one bottle of rum", and would be signed by Jones, Brown, Robinson or whoever. Such a person might not be within ten miles of the place and it was of no consequence to the canteen-keeper who wrote the note, or how badly it was written. Alexander alleged that the note was a sufficient guarantee for the canteen-keeper to

<sup>148</sup>. The Indian population of the Borough of Durban was 698 in 1875 and 1 450 in 1876. MM, Dbn, 1875-6.

<sup>149</sup>. NGG, 3 July 1877.

supply the liquor. He blamed the educated African for writing these notes. On one occasion he had entered a canteen and found that six out of the eight notes given to the barman had been written and signed by the same person. This meant that this individual was consuming six bottles of rum daily! On investigation he had discovered that this great drinker did not exist in Durban, but that these notes had been written by an "educated Kafir" who, at a cost, supplied his countrymen with the necessary means for obtaining liquor. Africans were becoming "so well educated" that they could obtain as much liquor as they required. (<sup>150</sup>)

From the extensive documentation on the subject of drunkenness and the use of intoxicating liquors amongst the African population, certain general perceptions emerge. With the exception of the County of Alfred, the Umsinga Magistracy, and the Divisions of Ulundi and Ipolela, the sale of spirituous liquors to Africans appeared to be general and on the increase. Essentially eight preventive measures were suggested by the various Resident Magistrates and Administrators of Native Law:-

- 1) The appointment of detectives.
- 2) Increased penalties on holders of licenses for the illegal sale of spirits to Africans.
- 3) Suppression of the license for one or more months.
- 4) A higher rate for the license.
- 5) Prohibiting the sale of liquor to Bastards or Hottentots.
- 6) A general reduction in the number of licensed houses.
- 7) Drunkenness to be severely punished.
- 8) The existing law, if strictly enforced, was considered to be sufficient.

The inevitable Select Committee (No. 10, 1877) was appointed to consider the Lieutenant-Governor's Message (No. 11, 1877) and the reports submitted by the various Resident Magistrates and Administrators of Native Law. It reported on 27 July 1877. In a relatively short report consisting of 14 points, the Committee attempted to provide the foundation of a stable liquor policy which would have the effect of reducing both the sale of intoxicating liquor to members of the African population and the extent of African drunkenness. The Committee brought forward the following recommendations:-

- 1) The restructuring of the licensing system. The authority to grant licenses should be vested in a Licensing Board consisting of the Resident Magistrate of each County or Division, and two other residents from such County or Division, nominated or appointed by the Lieutenant-Governor. The Board would meet quarterly to consider license applications. The Licensing Board

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<sup>150</sup>. Ibid.

would only consider applications for liquor licenses from Innkeepers, Hotelkeepers, Keepers of Accommodation Houses and Storekeepers, who had a public house attached to their premises. The onus would be on the applicant to satisfy the Board that sufficient accommodation was provided for man and horse to meet the wants of the district in which the license would be granted. The usual bonds would still be entered into.

- 2) The fines for breach of Law No. 18, 1863, should be increased to not less than £10, nor more than £25, for a first offence, and the license should be suspended for three months, at the magistrate's discretion. For a second offence, the Committee suggested a fine of not less than £20, nor more than £30, and the cancelling of the license, the offender to be thereafter disqualified from holding such a license.
- 3) It should be at the discretion of the magistrate to fine or imprison for the offence of drunkenness. The fine should not be less than 10s., nor exceed £5.
- 4) No person holding a liquor license should be allowed to supply any African with intoxicating liquors on a written requisition, unless the requisitioner had signed the order and was known to the seller. The seller would be required to file the order for inspection by the authorities. Any African found with intoxicating liquor in his possession, other than "Kafir" beer, should be arrested, unless accompanied by a pass from the seller, or from the person from whom it was being sent.
- 5) The Committee believed that in order to carry out these recommendations more effectually, the Field Cornet of each County, Division or Ward should be appointed to prosecute all offenders, and should receive half the fine on each conviction for his troubles. In addition, four Mounted Police should be attached to each magistracy to patrol the district in search of offenders. Each should carry a report and visiting book, which would be signed by various white inhabitants as the R.M. directed, and they should present this book to the R.M. for inspection at least once a week, together with a weekly report on the state of his district.
- 6) With regard to the manufacture of "shimian", the Committee found that the provisions of the circular of 14 December 1868 (from the S.N.A. to the Resident Magistrates) could materially check this practice if the regulations were properly carried out. It suggested that a fine of £2 be inflicted for a first offence and a sum not exceeding £5 for a second. Chiefs and headmen should be made fully to understand their responsibility and for any neglect of duty should be subject to a fine of double the amount imposed for the breach of regulation.

- 7) Finally, the Select Committee believed that many of the suggestions made by the Resident Magistrates were of great value and deserved consideration, but considering the late period of the session, they should be deferred to the next meeting of the Council. <sup>(151)</sup>

In 1877 Superintendent Alexander reported that the increase of drunkenness (58%) had been "entirely" amongst Indians, sailors and Africans, the former to a "very great" extent. <sup>(152)</sup> Only about 25 burgesses had contravened any of the bye-laws during that year. The Superintendent of Police for Pietermaritzburg, Thomas Joyce, reported that the drunkenness of the borough's African population had been exaggerated. There were about 1 500 African servants within the borough and although these people invariably had their leather purses filled with money, the phenomenon of an African servant in a state of intoxication was considered "very remarkable". In his estimation, "The Kafir servant will not spend his money in buying white man's liquor." <sup>(153)</sup> In 1877 there were about 50 African men who had been borne and bred in Maritzburg. These men apparently had some idea of civilised custom: "They consequently get drunk and steal." <sup>(154)</sup> In addition to these men, there were about 3 000 male Africans who worked in the town daily. These "visitors", together with the few permanent residents, were, in the words of Joyce, "addicted to drink". The "unsophisticated Kafir" was reported to be "honest and good", but soon after he came into contact with the "dominant race", his character changed. <sup>(155)</sup> As in Durban more whites were convicted for drunkenness than coloured persons. In 1876, for example, 202 whites and 161 coloured persons were convicted for drunkenness in the Borough of Maritzburg, while in 1877 314 whites and only 139 blacks were convicted. <sup>(156)</sup> During the first six months of 1877 87 whites and only 11 Africans were convicted for drunkenness.

The district of Verulam was also a veritable hot-bed of liquor offences. In the early part of 1878, there were several prosecutions for selling excisable drink without a license, one defendant being fined £10, the fine prescribed for a first offence. This fine was one of the heaviest on the statute books for any offence. This offence, together with the offence of selling drink to Africans, was apparently greatly on the increase in this division. Residents placed the blame squarely on the ineffective

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<sup>151</sup>. Ibid. It is unclear as to whether the recommendations of the Select Committee were ever implemented.

<sup>152</sup>. MM, Dbn, 1877.

<sup>153</sup>. MM, Pmb, 1877.

<sup>154</sup>. Ibid.

<sup>155</sup>. Ibid.

<sup>156</sup>. In 1877 Maritzburg's white male population numbered about 1 400 persons. MM, Pmb, 1877.

police establishment in the area. The increase in African drunkenness was most distinctly apparent to people who had resided in the area for the past decade:

Then, it was quite the exception to see a kafir drunk; but now, hardly a day passes that we do not see several going through this village, utterly ignorant or regardless of their destinations, and in many instances verging on a state of madness. If this state of things continues to increase, it can only result in the total annihilation of the race, for, with very few exceptions, the kafir has the most inordinate appetite for strong drink; and the evil will reflect as much on the white as on the black section of the community, as in time neither our lives nor property will be safe. <sup>(157)</sup>

Certain residents in Victoria County complained about the increasing drunkenness of Africans in their area, claiming that the law was a dead letter, and that Africans could obtain drink of all kinds, and in any quantity they might require. The usual plea was made, namely that the most stringent measures be adopted by legislators and that the authorities enforce all enactments affecting these cases in a strict and severe manner. The feeling was that if some action was not speedily taken, "our highways and streets will presently be beset by a horde of drunken savages, so that it will not be safe for our wives and children to venture out of doors." <sup>(158)</sup> It was considered that the police establishment was insufficient to cope with this growing evil and that the law itself was defective in that it did not provide for the sufficient punishment of the drunkard himself, only for the punishment of the seller. Many public houses in Victoria County allegedly derived most of their profits from this "nefarious traffic"; it was believed that it was quite impossible for the number of canteens in existence in this part of the colony to gain a livelihood by any honest trade. <sup>(159)</sup>

In Pietermaritzburg too, there were complaints about "disorderly kafirs". The Inspector of Slaughter Houses, Mr. T. Goodwill, told the Pietermaritzburg Town Council that he witnessed disgraceful scenes on Sundays: "Hundreds of drunken Kafirs were to be seen prowling about the Kafir barracks, and the Slaughter Houses, to such an extent that he found it difficult to inspect the cattle slaughtered for the jostling of drunken niggers. It was becoming a disgrace to humanity and very dangerous to the public passing." <sup>(160)</sup> Goodwill estimated that between 600 and 700 Africans had been present on the previous Sunday and asked the Council to adopt some means to prevent this situation. These Africans were apparently getting drunk on "kafir" beer, the sale of which was permitted by law. Residents complained

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<sup>157</sup>. NM, 26 March 1878.

<sup>158</sup>. NM, 2 July 1878.

<sup>159</sup>. Ibid.

<sup>160</sup>. NW, 7 March 1878.

that the Corporation of Pietermaritzburg was doing nothing to put a stop to these scenes. <sup>(161)</sup> The Mayor, in his defence, argued that the sale of African beer was allowed, not by the Corporation, but by the Government. The Corporation had endeavoured to stop the sale, but the Resident Magistrate, Mr. Bird, had ruled that African beer could be classed as "liquid porridge". The Corporation had therefore decided to grant licenses for the sale of African beer in order to exercise some control over it. He had instructed the police to patrol the area around the slaughter houses as much as possible, but there was no law under which they could arrest a person for being drunk alone; the intoxicated individual had to be creating a disturbance. <sup>(162)</sup> There were reports that African men and women had been seen in Longmarket Street "absolutely and positively drunk", but the Natal Witness complained that as long as they remained on their feet, and were not too boisterous, the police had no authority over them. <sup>(163)</sup> The residents of Pietermaritzburg memorialised their Corporation, begging them "to take steps for the suppression of the drunkenness and indecency carried on at the new Kafir houses near the Slaughter-houses." <sup>(164)</sup>

Despite the above sentiments, the Superintendent of Police, Mr. Joyce, reported in June of the same year that "the occupiers of the houses near the Slaughter House Drift continue to conduct themselves in a very orderly manner, and that the vast number of Kafirs who frequent these houses (especially on Sundays) are remarkable for their good behaviour." <sup>(165)</sup> He had noticed that small quantities of African beer were even being purchased by whites through their African servants. He presumed that this was being done for the purpose of analysis! <sup>(166)</sup> He denied that these houses were used as brothels, challenging anyone to prove that, after making due allowance for African habits, "immorality in the slightest degree is tolerated." <sup>(167)</sup> As Superintendent of Police, Joyce would have wanted to give the impression that everything was orderly and under control. Those who complained about widespread African drunkenness were probably exaggerating at the other end of the scale. The fact remained that the white residents of the towns of Natal did not wish to share 'their' towns with black people and used the evidence of vices like drunkenness to justify the exclusion of blacks from their midst. African drunkenness was perceived by whites as a far greater social problem than was white drunkenness. This was because African drunks appeared to pose a threat to the peace and security of the

<sup>161</sup>. NW, 2 April 1878.

<sup>162</sup>. NW, 4 April 1878.

<sup>163</sup>. NW, 16 April 1878.

<sup>164</sup>. NW, 27 April 1878.

<sup>165</sup>. NW, 6 June 1878.

<sup>166</sup>. It was too much for the white mind to comprehend that whites may have developed a taste for *utshwala*.

<sup>167</sup>. NW, 6 June 1878.

colonists, whereas a white drunk was seen as having fallen from society, and as such did not seem to threaten that society. (<sup>168</sup>)

In the light of the report of the Committee on Native Drunkenness and the widespread perception that African drunkenness was widely on the increase, it was almost inevitable that new liquor legislation would be introduced in order to strengthen the control which the white population exercised over the African and Indian populations. During the course of 1878, therefore, three new liquor laws were added to the Statute Books.

Law No. 17, 1878 - "To amend and explain the meaning of certain words used in the Law No. 14, 1868, and other Laws as to the distillation of spirituous liquors" stated that the word "spirits" occurring in any of the sections of the Excise Laws of the colony would be construed to mean and relate only to spirits manufactured or distilled within the colony and not to spirits imported into the colony. This law would be read and construed together with the Laws No. 14, 1868, No. 1, 1871, No. 36, 1874, and No. 14, 1876, as one law. (<sup>169</sup>)

Law No. 22, 1878 - "To prohibit the sale and disposal of spirits and other intoxicating liquors to persons of the Native race" - repealed Law No. 18 of 1863 and was essentially an attempt to tighten up on the provisions of the previous law. (<sup>170</sup>) The penalty for a first offence remained the same, viz. a fine not exceeding £10 or a maximum of three months' imprisonment, but the new law made provision to punish second and third offenders to a greater extent than first time offenders. Second offenders would thenceforth be fined an amount not exceeding £15, or in default of payment, be imprisoned with or without hard labour for any period not exceeding six months, while for a third or any subsequent offence, a maximum penalty of £20 or nine months' imprisonment would now be imposed.

The new law stated that the Field Cornet of a Ward could receive up to one-half of any fine imposed by the court if the prosecution had been a direct result of his work.

The Resident Magistrate was bound, in the case of a second conviction, to suspend the license of the offender for a period of three months, and in the case of a third or subsequent conviction, to cancel the license of the offender.

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<sup>168</sup>. For a more liberal view, see NW, 24 July 1877.

<sup>169</sup>. NGG, 19 Nov. 1878. This law is of no social significance and was not a mechanism of control.

<sup>170</sup>. NGG, 10 Dec. 1878.

In terms of the new law, any African requesting to be supplied with intoxicating liquor would have to produce a written order. The licensed dealer, before acting upon or complying with this order, was required to assure himself of the "genuineness" of the order, that it was signed by "some resident, or by some European" known to him, and that it was dated on the day upon which it was presented. <sup>(171)</sup> When he had supplied the African with the liquor, the dealer was required to furnish him with a pass, indicating the name of the European in whose name the liquor had been supplied, the name of the African who would deliver the liquor, the description and quantity of the liquor supplied, the date upon which it was supplied, and the name of the licensed dealer himself.

Any African found in possession of spirituous liquor and being unable or unwilling to produce such a pass, was liable to be arrested, and on conviction to pay a fine not exceeding 20 s., or in default of payment, to be imprisoned for any period not exceeding one month.

Law No. 23 of 1878 - "To amend the Ordinance No. 9, 1847, entitled 'Ordinance for regulating the Sale of Wines, and Spirituous and Fermented Liquors within the District of Natal'" - attempted to exercise a stricter control over the sale of liquor in the colony. <sup>(172)</sup> In future any person desirous of taking out a retail license for any of the purposes required under Ordinance 9, 1847, had to make an application in writing to the Resident Magistrate of the division in which he resided, setting forth the nature of the license required and the premises where he intended to carry out his business. The applicant was required to place a copy of his application at least twice in the nearest local newspaper. When he appeared before the Licensing Board, he would have to produce this newspaper. In the case of an application for any new license, the aspiring dealer was required to affix a copy of his application on the main door of the house for which he was seeking a license, such notice to remain in place until the application was decided upon. In addition, the Resident Magistrate was required to affix in some conspicuous place outside and inside his office, at the entrance to some place of public worship within seven miles (11 km.) of the seat of magistracy, and on the gate of the public prison, a notice containing the following information: the name of the applicant, the description of the house where business would be conducted, and the day on which the application for a license would come before the Licensing Board for determination. This notice would be displayed for a minimum of 14 days.

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<sup>171</sup>. Ibid.

<sup>172</sup>. Ibid.

The law provided for a Licensing Board to be established in each division of the colony, consisting of the Resident Magistrate and two landed proprietors resident in the division to be appointed annually by the Lieutenant-Governor. Neither of the landed proprietors could be a distiller or have any interest whatsoever in the manufacture, purchase, or sale of intoxicating liquors. The meetings of each Licensing Board would be open to the public and would be held quarterly in the court room of the Resident Magistrate of the division. The Board would hear any objections to the granting of a license, such as the character, misconduct or unfitness of the applicant, the unfitness or inconvenience of the premises, or the number of existing licensed houses already in the neighbourhood. The applicant would also have an opportunity to present his case, while other parties might also be called upon to give evidence.

The Licensing Board was only permitted to consider applications for liquor licenses from innkeepers, hotel-keepers, keepers of accommodation houses, and storekeepers, who had one of the formerly mentioned public houses attached to their store. The applicant would have to satisfy the Board that sufficient accommodation was provided for man and horse to meet the demands of the district in which the license would be granted. In all cases where licenses were granted, the recognizance in section 15, of Ordinance 9, 1847, would be entered into.

The law made provision to punish dealers who permitted any person to be guilty of drunkenness, or violent or disorderly conduct on his premises. For a first offence, the dealer was liable to a fine not exceeding £1, or imprisonment, with or without hard labour, for a period not exceeding 14 days, while for a second or subsequent offence, a maximum penalty of £5 or three months' imprisonment, or both, could be imposed. All convictions would be recorded on the license and all licenses would have to be lodged with the application for renewal thereof.

The law also dealt with "any person [found] at any time in a state of intoxication, or drunk and incapable, or drunk and riotous in any street, road, or lane, or in any other public place within any town or village, or on any public road in any part of the Colony." <sup>(173)</sup> First offenders would be liable to a fine not exceeding £1, or in default of payment, imprisonment, with or without hard labour, and with or without spare diet, for a period not exceeding 14 days. Those convicted for a second or subsequent offence would be liable to a maximum fine of £5 or imprisonment up to a maximum of three months, or to both such fine and imprisonment.

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<sup>173</sup>. Ibid.

The provisions of Law 23, 1878, did not apply to any township within Natal, which may have been constituted a borough in terms of the "Municipal Corporations Law" of 1872, except for clause 7 dealing with licensed dealers who allowed disorderly conduct on their premises. Penalties imposed for contravention of clause 7 within any borough would be paid into the Borough Fund of that borough. In future, Ordinance No. 9, 1847 and any other relevant Ordinances and Laws, as amended by the new Law, would be construed in conjunction with Law No. 23, 1878. Law No. 23 was primarily intended to address the problem of drunkenness in the countryside and was not applicable to the Boroughs of Durban and Pietermaritzburg, which continued to be governed by their own bye-laws.

The year 1879, the year of the Anglo-Zulu War, saw a dramatic increase in drunkenness in the Borough of Durban, 1 721 convictions being recorded.<sup>(174)</sup> This represented an increase of 216% over the previous year. During 1879 the influx of troops into Natal saw the white population of Durban increase by nearly a third from 5 425 to 7 188. These troops were primarily responsible for the sudden increase in the level of drunkenness. In his report, however, Superintendent Alexander makes no mention of white drunkenness, clearing implying that he was more concerned about the 'threat' posed by African drunkards. Alexander reported that drunkenness amongst Africans was "increasing fast", particularly during the previous three months when 84 had been arrested. Those tried had been sentenced to an average fine of 3s.1d. each. Some of these were "very old" offenders. 38 Africans were arrested under section 10 of Law 22, 1879, for having liquor in their possession without a pass; they were sentenced to an average fine of 6s. each.<sup>(175)</sup> In Maritzburg too drunkenness was reported to be the "prevailing vice" and was supposedly the primary cause of most of the crimes of thefts and assaults committed in the borough.<sup>(176)</sup> During the year ending 31 July 1879 840 convictions were obtained for being drunk and incapable, compared with contraventions of the bye-laws (1 920 convictions), contraventions of the Masters and Servants regulations (420), theft (293) and assaults (140). Drunkenness in Maritzburg remained, therefore, both the most prolific crime and the single most important social problem.

Despite Law No. 22 of 1878, prohibiting the sale of spirituous and intoxicating liquors to Africans, many white residents were still dissatisfied. They complained that, in framing this law, legislators had not prohibited Africans from obtaining as much treacle as they required from the numerous sugar mills throughout Natal. This treacle was the principal ingredient in a highly intoxicating drink called *isishimiyana*.

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<sup>174</sup>. MM, Dbn, 1879.

<sup>175</sup>. Ibid.

<sup>176</sup>. MM, Pmb, 1879.

The supposed increase in immorality amongst Natal's African population was thought by whites to be caused, in part, by the consumption of an "immense amount" of this new concoction at the different homesteads. It was alleged that several homesteads obtained a fresh supply of treacle daily for the sole purpose of making *isishimiyana*.<sup>(177)</sup> Africans under the influence of 'shimyan' were said to be incapable of working. White concern for black morality was more often than not based on self-interest; drunk labourers did not make good labourers.

The proponents of teetotalism were very active throughout the 1870s in both Durban and Pietermaritzburg. Within a year of its formation, the Pietermaritzburg branch of the Total Abstinence Society had 200 members on its books, while the Band of Hope Pledge Book could boast 84 names by 1871.<sup>(178)</sup> In 1873 a Good Templar Lodge was formed in both of the colony's major towns.<sup>(179)</sup> By 1875 a further teetotal organization had sprung up in Pietermaritzburg, the Independent Order of Good Templars,<sup>(180)</sup> while the Grand Lodge of Natal was launched in 1876.<sup>(181)</sup> In 1877 the Independent Order of Rechabites joined the battle against drinking alcoholic beverages.<sup>(182)</sup>

The advocates of temperance were still very active towards the end of the decade and in 1879 a new organization, the Natal Temperance Union, joined the fray against the evils of drunkenness. In a letter to the Pietermaritzburg Town Council, the Union made a series of sweeping suggestions relative to the opening and closing of hotels and canteens:-

- a) The new bye-laws should include stipulations requiring the closing of billiard-rooms at 10 p.m. instead of midnight.
- b) Public-houses should be prohibited from opening before 8 a.m. and should be required to close at 9 p.m. each day.
- c) Canteens should not be permitted to open during any part of Sunday.
- d) Canteen-keepers, who supplied persons with liquor to the extent that they became intoxicated, should be fined £15 for a first offence, and for any subsequent offence, should have to forfeit their license and be disqualified for all time from renewing it. In addition, canteen-keepers should be liable for these fines even if the intoxicated person was not actually found on their premises.

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<sup>177</sup> . See NM, 18 Oct. 1879.

<sup>178</sup> . NW, 11 July 1871.

<sup>179</sup> . NW, 22 July 1873.

<sup>180</sup> . NW, 5 Nov. 1875.

<sup>181</sup> . NW, 10 April 1877.

<sup>182</sup> . NW, 28 August 1880.

- e) The Borough Police should be empowered, at all times and under all circumstances, to enter licensed houses for the purpose of inspection.
- f) Clubs should be prohibited from selling liquor before 7 a.m. or after 11 p.m. each day.
- g) The bottle license system should be abolished. <sup>(183)</sup>

The Union also advised the Government to increase the duty on spirits and remove the duty on imported light wines. In the same year a Temperance Hotel was established in Pietermaritzburg, but this appeared to have little influence on the level of drinking in the town. In 1880 a Juvenile Tent of the Independent Order of Rechabites, in connection with the Ark of Safety Tent, was set up in Pietermaritzburg. The new tent was called the Parent's Hope Tent and was the first Juvenile Temperance benefit Society to be established in Natal. <sup>(184)</sup>

Despite regular meetings and much rhetoric, and the zeal and good intentions displayed by their members, these organizations failed to make any significant inroads into one of mankind's oldest vices, the imbibation of liquor to excess. Nevertheless, they probably did make some contribution to placing a brake on drunkenness in that they acted as the conscience of society, constantly reminding it of the physiological, psychological and spiritual damage that alcohol can cause.

The decade appeared to end in much the same vein as it had started, with complaints being made that Africans were being supplied with intoxicating liquor. The existing laws, stringent as they were, and the vigilance of the police appeared to be having little effect. The Natal Witness reported that it was "no unusual spectacle to see Kafir men and women drunk in the streets during the day." <sup>(185)</sup> A "very pernicious practice" had apparently become prevalent in Pietermaritzburg, namely the selling of drink to Africans by Indians. <sup>(186)</sup> Indians were allegedly going around to places where Africans were employed and offering them rum at 2s. to 2s. 6d. per bottle. African drunkenness had become a reality which the white colonists hated. The traditional days of Zulu sobriety had gone forever as both European spirits and African concoctions such as *isishimiyana* continued to gnaw away at the fabric of Zulu morality. African chiefs and parents lamented their loss of control over their children and could only watch as all the ravages of the 'superior' white culture turned young (and old) Africans into drunkards and prostitutes. Urbanised Africans in

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<sup>183</sup>. NW, 7 August 1879. It is not known whether the Council ever acted on these suggestions.

<sup>184</sup>. NW, 21 Sept. 1880.

<sup>185</sup>. NW, 29 July 1879.

<sup>186</sup>. NW, 16 Sept. 1879.

particular, released from the parameters of traditional rules and pressures, succumbed to all the attractions of town life and found that there were no new authority structures to replace the ones they had left behind in the countryside. The number of Africans in Durban almost doubled during the 1870s (1870: 1 766; 1879: 3 057). The pressures on these people to become urbanised were not great, Natal's African agricultural sector still enjoying a large degree of independence and success. Sadly, therefore, the majority of urbanised Africans at this time were willing participants, keen to experience the freedom of town life and unlimited access to new western goods. Unwittingly, they were contributing to the destruction of their own culture. In addition to Durban's African population, Indians were also breaking the bounds of custom and caste, and had begun to contribute significantly to drunkenness in the borough. The dominant Anglo-Saxon culture of the white settlers was also having a destructive impact on the Indian population living in the region.

It is important to examine the state of Natal's economy during the 1870s in order to determine whether there is any correlation between the incidence of drunkenness and economic prosperity or depression. During 1870 the economy began to revive after five years of severe depression and there was marked prosperity up until 1875. During 1876, however, the colony experienced a moderate recession, followed by a moderate depression through to the end of 1877. The economic revival began during 1878 and in the following year prosperity returned to the colony once again. The following table reflects the number of convictions for drunkenness in the Borough of Durban for the period 1870-9, the total number of offences (all crimes) committed and the percentage which drunkenness constituted of the total offences:-<sup>(187)</sup>

Convictions for Drunkenness in the Borough of Durban (1870-9)

	<u>Whites</u>	<u>Indians</u>	<u>Africans</u>	<u>Total</u>	<u>Total Offences</u>	<u>Percentage Drunkenness</u>
1870	81	52	42	175	766	22.8
1871	89	53	39	181	903	20.0
1872	88	56	37	181	996	18.2
1873	89	80	70	239	1 163	20.6
1874	163	128	80	371	2 167	17.1
1875	136	122	85	343	2 747	12.5
1876				402	2 439	16.5
1877				637	3 414	18.7
1878				797	3 717	21.4
1879	1 305		208	1 513	7 368	20.5
				(4 839)	(25 680)	(18.8)

<sup>187</sup>. MM, Dbn, 1870-1879.

The above figures clearly indicate that drunkenness amongst all the population groups was very much on the increase and there is often a direct correlation between the state of the economy and the level of drunkenness. During the economically prosperous years 1870-5, the level of drunkenness almost doubled as whites, Indians and Africans took advantage of their relative affluence to imbibe heartily of their favourite drinks. During this period white drunkenness increased by 68%, Indian drunkenness by 135% and African drunkenness by 102%. The recession of 1876 and the moderate depression of 1877 were not severe enough to retard the desire and financial ability of people to continue drinking, often to excess. During these years, therefore, there was a significant increase (86%) in the level of drunkenness in the Borough of Durban. The pace was now picking up; whereas it had taken five years (1870-5) to double the incidence of drunkenness since the start of the decade, it had only taken a further two years (1875-7) to achieve the same dubious result once again. During 1878, as the economy entered a period of revival, Durbanites continued to enjoy the social and psychological benefits of drinking alcohol. Without a doubt, though, these activities were destroying the moral fibre of all those - white, African and Indian - who drank themselves into oblivion rather too frequently. During the final year of the decade there was a meteoric increase in the incidence of drunkenness due essentially to two factors. Firstly, the economy of Natal entered a period of prosperity suggesting that not only did people have more money to spend on a habit which was now firmly developed, but that drinking became an even more enjoyable pastime in the more positive economic climate. The more repressed drinking of 1876-7 was probably replaced by the more relaxed drinker of 1878-9, but the basic activity had not changed. Secondly, at the start of 1879 there was a significant influx of troops into Natal as Britain declared war on King Cetshwayo and his Zulu people. Some of these troops were stationed in Durban and others were invalided in the town. The white population of Durban increased by 1 763 or 33% (1878: 5 425; 1879: 7 188). These troops were primarily responsible for the upsurge in drunkenness during 1879. Indeed, the residents of Durban complained bitterly about the drunken and boorish excesses carried out by this group of men.

The above table also reveals that drunkenness remained one of the most prolific crimes committed in the Borough of Durban, constituting an average of 18.8% of all crime committed during the 1870s. During several of these years there were more convictions for drunkenness than any other crime and it remained one of the most visible of all crimes. White, Indian and African drunkenness were all on the increase. Although rum exports had declined since 1876 when 41 092 gallons had been exported, the fact that rum was exported throughout the decade shows that

there was more than enough rum in the colony to satisfy local consumption demands. By 1879 there were a number of distilleries operating in Natal, producing for both the local and the export market. In the Division of Upper Umkomanzi (County of Pietermaritzburg) there was a brewery in the Umlaas district. At Isipingo in the County of Durban there was a distillery on the Reunion Estate. The majority of the distilleries were located in the Inanda Division of the County of Victoria. In Ward One nine distilleries were in existence, in Ward Two a further seven distilleries operated, while the County of Alexandra contributed two distilleries. <sup>(188)</sup>

In addition to the local manufacture of beer and rum, there was also a substantial import trade in liquor. In 1879 liquor imports amounted to 498 040 gallons (2 241 180 litres) of ale, beer and cider, 184 764 gallons (831 438 litres) of spirits and 102 503 gallons (461 264 litres) of wine. A further 935 gallons (4 208 litres) of spirits and 1 072 gallons (4 824 litres) of wine were imported for the specific use of the officers of Her Majesty's service. <sup>(189)</sup> There was, therefore, more than enough liquor in the colony to slake the alcoholic thirst of even the most demanding drinker. And there remained numerous canteen and other establishments in Durban where whites and Indians could legally acquire liquor. White canteen-keepers and Indian middle-men were blamed for the increase in African drunkenness and for contributing to the decline of the "Native" race. It was extremely difficult, however, to bring these men to justice since the illicit trade was, by nature, secret and lucrative enough to white and Indian bootleggers to make extreme caution their watch-word. African participants in the illicit trade refused to inform against their suppliers. The table below reflects the number of people convicted (under Law No. 18, 1863) in the Borough of Durban for supplying liquor to Africans during the period 1871-9. The number of convictions probably represents only a small proportion of the illicit liquor transactions which were actually conducted <sup>(190)</sup> :-

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<sup>188</sup>. NBB, Vol. 1, 1879.

<sup>189</sup>. Ibid.

<sup>190</sup>. MM, Dbn, 1871-1879.

Convictions for Supplying Africans with Liquor  
in the Borough of Durban (1871-9)

	<u>Whites</u>	<u>Indians</u>	<u>Africans</u>	<u>Total</u>
1871	0	0	0	0
1872	5	3	1	9
1873	2	1	0	3
1874	5	8	25	38
1875	4	12	7	23
1876				50
1877				56
1878				70
1879				93
				(342)

Although Durban's white population was responsible for the majority of drunkenness, the colonial press and the white colonists generally conveniently ignored this embarrassing reality and concentrated on instances of African and Indian drunkenness. Reports and perceptions from almost every corner of the colony suggested that there was widespread drunkenness among African people and that this 'evil' was on the increase. The table below, however, which shows the amount of drunkenness contributed by each of the population groups in the Borough of Durban during the period 1870-5, confirms that the idea of extensive African drunkenness was essentially a myth and that white and Indian drunkenness was much more of a social problem in Durban than African drunkenness (<sup>191</sup>):-

Percentage of Total Drunkenness committed  
in the Borough of Durban by Whites,  
Indians and Africans (1870-5)

	<u>Whites</u>	<u>Indians</u>	<u>Africans</u>
1870	46	30	24
1871	49	29	22
1872	49	31	20
1873	37	34	29
1874	44	34	22
1875	40	35	25

It is also useful to consider briefly the incidence of white, Indian and African drunkenness in relation to the size of the population of each ethnic group resident in the Borough of Durban. The table below illustrates the approximate proportion of each race group convicted for drunkenness in the Borough of Durban for the period 1870-5 (<sup>192</sup>):-

<sup>191</sup>. From 1876-9 the Mayor's Minute does not give the break-down between the races.

<sup>192</sup>. MM, Dbn, 1870-1875.

Relationship between Population and Drunkenness  
in the Borough of Durban (1870-5)

	<u>Population</u>	<u>Convictions</u>	<u>Percentage Convicted</u>
1870	Africans: 1 766	42	2.4
	Whites : 3 147	81	2.6
	Indians : 668	52	7.8
1871	Africans: 1 777	39	2.2
	Whites : 3 324	89	2.7
	Indians : 656	53	8.1
1872	Africans: 1 875	37	2.0
	Whites : 3 493	88	2.5
	Indians : 908	56	6.2
1873	Africans: 2 297	70	3.0
	Whites : 3 600	89	2.5
	Indians : 665	80	12.0
1874	Africans: 2 252	80	3.6
	Whites : 4 129	163	3.9
	Indians : 1 860	128	6.9
1875	Africans: 2 286	85	3.7
	Whites : 4 564	136	3.0
	Indians : 698	122	17.5

It is evident that in every year a greater proportion of the Indian population was convicted of drunkenness than both the white and the African populations. And in four of the six years reviewed above, a greater proportion of the white population was convicted of drunkenness than the African population. Why then, was there such an overwhelming emphasis on African drunkenness when one considers the fact that throughout the 1870s more whites were convicted than any other population group and a greater proportion of the Indian population was convicted for drunkenness than any of the other groups? Why was Indian drunkenness not perceived as a major social problem at this time? Clearly, the answer to these questions lies in the deep-seated desire and necessity which the white colonists felt to maintain and entrench their authority in the colony. They believed that this could only be achieved through the maintenance of a strict control over the region's vast African population. During the 1870s the white governmental and municipal authorities, in response to the rising incidence of drunkenness generally and the perception that African drunkenness was rampant, used the same control mechanisms which had been developed in the 1860s, namely legislation, the police and the judiciary. The results of their efforts, however, seemed to equal the disappointments of the previous decade, the new liquor laws having little positive influence on the level of drunkenness.

Although the borough's white population was significantly larger than the African population, (<sup>193</sup>) white fears about the safety of their persons and property were prompted by their perception that the majority of Africans were slaves to drunkenness, theft, sexual immorality and criminality generally. The rape scare of 1866-71 had done nothing to alter this view of the African and probably convinced whites of the necessity to extend and consolidate the mechanisms of control on a broad front. The belief that most crimes were committed under the influence of alcohol and that a wave of African criminal activity and rebellion could result if the use of liquor was not regulated, had led to the passage of Law No. 22 of 1878, yet another attempt to prohibit the sale of intoxicating liquors to the African population. The municipal authorities in Durban and Maritzburg passed bye-laws dealing with drunkenness and liquor licenses. The intention behind these enactments was not so much the civilization and moral upliftment of the African race, but rather the control of those people. Given the fact that Natal's African population numbered 358 660 by 1880, compared with the modest white population of only 25 271, and in the light of the perceptions which whites held about their African neighbours, the neurosis of the colonial psyche is understandable. If control could be achieved under the guise of moral reform, this would have the additional benefit of satisfying the settler conscience, which was ever conscious of the responsibility to civilise, christianise and commercialise so-called backward, inferior cultures.

As in the 1860s, the white settlers did not feel threatened to the same extent by the Indian population. They may have resented the economic competition of Indian merchants and felt disgust at Indian 'immorality', but there was never that fear of losing control and being swamped by masses of Indian criminals fired up by alcohol. The relatively small size of the borough's Indian population (1879: 2 973) and indeed the Indian population of the colony (1880: 15 568) undoubtedly gave the whites a sense of numerical security. For these reasons, no liquor legislation aimed specifically at Indians was passed during the 1870s. The white colonists may have been unhappy about the level of Indian drunkenness, theft and morality generally, but they did not yet feel the need to tighten the controls over this section of Natal's population.

The new decade (1880-1889) saw further attempts by white legislators and authorities to impose control mechanisms on the region's black peoples. In 1880 Pietermaritzburg felt the need to tighten the existing controls over drinking and the

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<sup>193</sup>. For example, in 1878 there were 5 425 whites and 3 313 Africans living in Durban. MM, Dbn, 1878.

liquor trade, and therefore passed a new set of bye-laws, thereby repealing the existing laws (ie. those of 10 March 1874). The following were some of the significant changes made:-

No. 143 - The Licensing Board was empowered to grant to any wholesale dealer in wines and spirits a class of retail license to be called a bottle license. This allowed the holder to sell liquor in bottles, containing not less than a reported quart, to be taken away and not to be drunk in or near the premises where the liquor was sold.

No. 144 - All persons applying for a liquor license were required to provide proper and sufficient urinal and latrine accommodation on the premises for which the license was required. The applicant had to lodge with the Licensing Board the certificate of the Inspector of Nuisances, stating that such provision had been made to his satisfaction. Contravention of this bye-law made the offender liable to a fine not exceeding £10 or, in default of payment, to imprisonment not exceeding three months.

No. 150 - Any licensed dealer who permitted drunkenness or violent or disorderly conduct on his premises was liable to be punished. For a first offence, he would be liable to a fine not exceeding £1, or imprisonment, with or without hard labour, for a period not exceeding 14 days, while a second or subsequent offence would incur a maximum fine of £5, or a maximum period of imprisonment of three months, or both. All convictions would be recorded on the license.

No. 152 - Same as bye-law 105 of 1874, except it provided for the penalty for refusing to admit a Police Officer to an establishment licensed to sell liquor, viz. a fine not exceeding £10, or in default of payment, any period of imprisonment not exceeding one month.

No. 158 - Every person who occupied or kept any lodging-house, beer-house, public-house or other place where intoxicating liquor was sold, or any place of entertainment or public resort, and who knowingly harboured thieves or reputed thieves, or knowingly permitted them to assemble therein, or allowed the deposit of goods therein, having reasonable cause for believing them to be stolen, would be liable on summary conviction to a penalty not exceeding £10, or imprisonment for a term not exceeding three months.

No. 164 - Same as No. 115 of 1874, except the hours provided for were now 5.00 a.m. to 11 p.m. (<sup>194</sup>)

In 1880 Superintendent Alexander observed that Africans, "through the great increase in wages they receive, more than some labouring men in England", were

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<sup>194</sup>. NGG, 6 Jan. 1880. In the following year Maritzburg passed a further set of bye-laws, thereby repealing the laws of 1880. Once again the essential intention was to tighten the controls over licensed dealers and drinkers.

becoming "fond" of drink. <sup>(195)</sup> The authorities were still attempting to track down and punish those who sold liquor to Africans. For example, Mr. Middleborough, proprietor of the Commercial Tap, and James Carpenter, his barman, were charged with selling a bottle of rum to an African named Ustok. They were found guilty and sentenced to pay a fine of £10, or in default of payment, to be imprisoned for two months. In handing down his judgement, the Resident Magistrate made it clear that he was ruling in the interests of white society: "If the supplying of liquor to natives were to go on, crime would increase; even now we find the natives are getting insolent and impertinent, and give more trouble than they are worth, and it is but right that the public should be protected. It is a wise precaution that these people should be saved from drink as children are saved from fire." <sup>(196)</sup> The magistrate was concerned that the control over the colony's African people was becoming more difficult to effect. In the colonial period, magistrates could afford to be unashamedly racist in their comments and even in their judgements. In fact, society demanded it and most people knew no other way. Natal's African people were regarded as the 'boys and girls' of society, children who needed to be guided along the path to that most laudable ideal, Anglo-Saxon maturity.

Alexander reported that a number of shebeens in the Congella area were doing tremendous business. These were usually run by Indians, often women, and they owed their very existence to the demand for alcohol by the region's African peoples. These entrepreneurs purchased rum at 9d. per bottle and retailed it to Africans for 1s. 6d.. <sup>(197)</sup> He had been told by the "respectable inhabitants of the Congella" that so large was the trade and great its profits that these Indians had begun to purchase land in the area. <sup>(198)</sup> In a raid on one of these shebeens, the Superintendent found hundreds of bottles. At the subsequent court case, a fine of £5 was imposed, the magistrate promising to make it £10 for a second offence. In another case, an Indian woman, convicted of selling rum to Africans, was fined £6 or, in default, two months in prison. The magistrate remarked that this woman had made over £200 from this trade in the past 12 months and had purchased land to the value of £100. <sup>(199)</sup> Resident Magistrate Titren recommended that Indians, on the expiration of their terms of indenture, should either be reindentured or returned to India. He believed that the primary cause of African drunkenness was the free access to liquor which the Indian population enjoyed. <sup>(200)</sup> The Natal Mercury warned that some measures would "speedily have to be adopted to put down the illicit traffic in rum, before

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<sup>195</sup> . MM, Dbn, 1880.

<sup>196</sup> . NW, 21 Jan. 1880.

<sup>197</sup> . NM, 15 March 1880.

<sup>198</sup> . NM, 22 June 1880.

<sup>199</sup> . NM, 21 Sept. 1880.

<sup>200</sup> . NM, 13 Dec. 1881.

drunkenness and its attendant evils amongst the native population become more serious than they are at present." <sup>(201)</sup>

Business for many of these Indians was so good that even heavy fines were not a sufficient deterrent, being regarded merely as an occupational hazard reducing the margin of profit. An Indian woman by the name of Mary could afford to forfeit bale of £10 for supplying an African with rum. Her entire family appeared to be involved in this illicit traffic and had in recent times been fined the sum of about £60 for various similar contraventions. Mary herself had been incarcerated recently for three months, but neither imprisonment nor heavy fines appeared to have any effect upon her. <sup>(202)</sup> Another Indian woman by the name of Currimbee, who was sentenced to pay the severe fine of £15, paid the amount immediately and allegedly "went home rejoicing." <sup>(203)</sup> The police complained that it was almost impossible to extract information from Africans as to where they obtained liquor. Indians who moved from village to village, supplying Africans with liquor and never remaining too long in one place, often forced Africans to promise that they would not inform against them. In some instances they were required to first pay a security before being supplied with liquor; once a man had proved his *bona fides* by purchasing and consuming a certain amount of alcohol, his security would be returned to him. <sup>(204)</sup>

Even within this illicit traffic, there was the crafty, dishonest Indian who was determined to extract still further profit from his black brethren. The following situation was revealed when an Indian was brought to court, charged with selling rum to Africans. He was in the habit of going to town where he purchased small bottles of rum at the rate of 6d. each. On returning home, he would procure a similar number of empty bottles and into these pour half the contents of the bottles he had recently purchased. He then filled up all the bottles with water and disposed of them at the rate of 1s. each to Africans who were only too grateful to lay their hands on some of the forbidden fruit. This particular Indian vendour was thus clearing the very respectable profit of 300 per cent. The *Natal Mercury* described this rum-selling business as "one of the easiest, pleasantest, and remunerative callings possible to engage in - until found out." <sup>(205)</sup> Even those who fell foul of the law could probably well afford to pay the fines levied against them.

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<sup>201</sup> . Ibid. A small minority of whites favoured an entirely open liquor trade. See, for example, NM, 29 July 1880.

<sup>202</sup> . NM, 9 August 1881.

<sup>203</sup> . NM, 13 Jan. 1887.

<sup>204</sup> . NM, 19 August 1884.

<sup>205</sup> . NM, 16 Sept. 1881.

Certain judicial authorities, such as Resident Magistrate Barter, appeared to oppose discriminatory legislation, although by the same token, they were not prepared to launch a crusade against such laws. Their opposition resided at the level of conscience only and never took the form of practical action. Nevertheless, their liberal and democratic views, insipid as they were, represented an important chink in a colonial armour designed to ward off the perceived threat of the black man. Barter, punishing two African woman for selling beer without a license, remarked that it was "rather hard that the Kafir should be denied his liquor." <sup>(206)</sup>

In 1882 the Natal Native Commission submitted its report and expressed satisfaction that Africans had made "some progress towards civilization" during the past 35 years. <sup>(207)</sup> This was evidenced in the success or influence of missionary settlements, in the acquirement of property, both immovable and movable, in the greatly increased wearing of clothing, in the use of ploughs and wagons, in the diminution of forced marriages of girls, and in the more extensive purchase of manufactured goods. But among the last, the Commission regretted to report that the consumption of ardent spirits among the African population was on the increase. While the Commissioners considered it desirable that the arguments on either side should be more fully discussed than thitherto, they themselves did not recommend a free trade in liquor. Instead, they recommended that the existing Liquor Law, which prohibited the sale of intoxicating liquors to Africans, should be amended so that on any conviction after the first for such illegal selling the punishment might include imprisonment as well as a fine, and deprivation. The Commission had pushed their more liberal sentiments into the background and resorted to treading the inevitable safe path, that of asking for harsher penalties to be imposed.

As life in colonial Natal moved through the 1880s the mechanisms of control over the African and Indian populations began to be tightened. These mechanisms usually took the form of new legislation, harsher judicial penalties or increased police vigilance. The colony's white settlers had an unshakeable belief in the efficacy of this approach, and it appeared to work, serving to make them even more determined in their efforts. For example, the establishment of the Umgeni police station in 1882 led the Natal Mercury to remark that "since they started duty we have been able to go about the Umgeni without fear of molestation by drunken kafirs or coolies." <sup>(208)</sup>

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<sup>206</sup> . NW, 5 Sept. 1882.

<sup>207</sup> . NGG, 31 Oct. 1882.

<sup>208</sup> . NM, 15 Feb. 1882.

The fact that within the first 20 days of its establishment not a single case of drunkenness was reported to the magistrate seemed to indicate to the colonists that their approach was indeed the correct one.

When law enforcement failed, the colonists could always rely on the Resident Magistrate to crack down hard on offenders. Magistrates Finnemore and Titren were no exception to this rule. For example, an Indian woman named Tulgerie, charged with contravening section 3 of Law No. 22 of 1878, in that she sold liquor to an African, was sentenced to pay a fine of £20 or to be imprisoned for nine months with hard labour. <sup>(209)</sup> This is one of the harshest penalties on record; Finnemore's intention was obviously to use the sentence to serve as a deterrent to other aspiring offenders. Magistrate Titren found another Indian woman by the name of Sambie guilty of a similar offence and sentenced her to pay a fine of £15 or to be imprisoned for six months with hard labour. <sup>(210)</sup> Both these penalties are far above the usual maximum of £10 and could indicate a mood of desperation among some of the colony's judicial authorities.

When law enforcement and deterrent sentencing both failed to exercise the necessary control over the region's drunks, then new legal enactments were usually brought in to do the job. Magistrate Titren recommended that the bye-laws relating to drunkenness and creating a disturbance should be amended by the Durban Corporation because, under the existing system, the police were not allowed to arrest people for being drunk and incapable unless they were lying down and unable to get up. In addition, they were not empowered to arrest people for creating a disturbance if they were not in a public place. <sup>(211)</sup> Superintendent Alexander also recommended that this particular bye-law be changed. As a result of this pressure, Durban's 110th. bye-law, dealing with the question of drunkenness, was duly amended early in 1883 to read as follows: "Every person found in any public place within the borough either drunk or incapable, owing to the effects of liquor, of taking care of himself or herself, may be taken into custody, and shall be deemed to have contravened this bye-law." <sup>(212)</sup>

From the early 1880s "shebeening", as it was called, became a common crime in Maritzburg. This term referred to the practice of selling liquor to Africans, often without a license. Many of these "shebeen kings and queens" were white men and women who had seen the opportunity to make a fast and not unsubstantial buck.

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<sup>209</sup> . NM, 25 July 1882.

<sup>210</sup> . NM, 2 Sept. 1882.

<sup>211</sup> . Ibid.

<sup>212</sup> . NM, 5 Jan. 1883.

For example, George Smith was charged under the bye-laws with selling liquor to an African, and under Ordinance 9 of 1847, with selling liquor without a license. He pleaded guilty to operating a shebeen from his house in Greyling Street and was sentenced to pay a fine of £11 or to be imprisoned for one month. <sup>(213)</sup> In another case, James McDonell was charged with the same offence and was fined £3 or one week in prison, it not having been proved that he operated a permanent "shebeen". <sup>(214)</sup> George Glover of Retief Street appeared on behalf of his wife who had allegedly sold some gin to two African girls while he was at work. The police had apparently had knowledge of his "shebeening" for some time. He was sentenced to £11 or one month. <sup>(215)</sup> In a more serious case, Alfred Hunter and his African servant, Matshana, were charged under Law No. 9 of 1847 with selling liquor without a license. Hunter, who operated an eating-house in Commercial Road, had been fined on two previous occasions and had once forfeited bale of £20. The notorious "trapping system" had been used to catch Hunter; the police had sent two Africans in to buy a bottle of rum, which was produced as evidence. Magistrate Barter remarked that the illicit trade must be a very lucrative one, since the prisoner was still so persistent after repeated punishment. While it was true that the quantity of liquor found in Hunter's house on this occasion was small (two large flasks of gin and three empty rum bottles), he had no doubt learned to be cautious and only kept small supplies. Regarding the offence as an aggravated one, the magistrate sentenced Hunter to pay a fine of £30 or to be imprisoned for three months with hard labour. <sup>(216)</sup>

Some commentators were of the opinion that certain restrictions on the liquor trade, such as Sunday closing, were merely encouraging the illicit trade. This restriction was a fairly recent phenomenon, the Maritzburg Town Council having voted in 1881 to pass a bye-law making Sunday-closing compulsory. But it had become clear to all discerning observers that with the passing of the bye-law "an illicit traffic arose which threatened ... to produce more 'drunks' at a Monday's Police Court than on any other morning during the week." <sup>(217)</sup> As a result, a general feeling had arisen in favour of partial Sunday opening and Mr. Owen proposed to the Town Council that canteens should be permitted to open "during reasonable hours". <sup>(218)</sup> In March 1883 the Maritzburg Town Council agreed that canteens could open for an hour on Sundays. The Natal Witness observed that "the striking feature about the new arrangement is

<sup>213</sup>. NW, 20 Feb. 1883.

<sup>214</sup>. NW, 21 Feb. 1883.

<sup>215</sup>. NW, 22 Feb. 1883.

<sup>216</sup>. NW, 20 June 1883.

<sup>217</sup>. NW, 15 Nov. 1882.

<sup>218</sup>. Ibid.

the fact that the police will have time to run in most of the inebriates before darkness sets in." (219)

The question of drinking alcohol on a Sunday made regular appearances in the colonial press. The Natal Witness reported that there was an immense number of canteens in Durban and that it was an open secret that a great deal of liquor was surreptitiously sold on some, if not all, of these premises during prohibited hours on Sundays. (220) The Superintendent of Police acknowledged that the practice was carried on, but complained that it was almost impossible to apprehend the offenders since the people who frequented these places were reluctant to turn informers. The Natal Witness concluded that Sunday-trading was tolerated because "the position of the canteen-keepers is so strong that the law cannot get at them. Moreover, the Durban-police are not over-anxious to interfere with canteen-keepers." (221)

In 1883 settler society turned once again to fresh legislative enactment in their desire to retain and extend their control over the colony's African and Indian populations. J.L. Hulett, the member for Victoria County, moved before the Legislative Council that, "in view of the great increase in drunkenness and crime resulting from the free use of intoxicating liquor by the Indian inhabitants of this Colony, and the ready means by which the natives obtain liquor through the agency of the same", a bill should be introduced into the House whereby all Indian immigrants and their descendants residing in any part of Natal should be placed under the restrictions put upon the Africans by Law No. 18 of 1863. (222) This was the first attempt to bring Natal's Indian population under a stricter control. As a sugar farmer, Hulett would have viewed Indian drunkenness more from an economic than a moral platform. His primary concern in motivating such restrictive legislation would have been the productivity of the indentured labourers on his plantations. If these people drank too much and became intoxicated, this would have a severe negative effect on their level of productivity, which could undermine his entire farming operation. His concerns about the sobriety of his workforce are thus understandable. This bill was attempting 'to kill two birds with one stone'; on the one hand, it sought to control the economic threat posed by drunken Indian labourers, while on the other it aimed to check the perennial threat to white authority posed by Natal's massive African population, whose 'nefarious' crimes were alleged to be committed under the influence of alcohol. In short, the bill aimed to control the social

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<sup>219</sup> . NW, 2 March 1883.

<sup>220</sup> . NW, 11 Jan. 1889.

<sup>221</sup> . Ibid.

<sup>222</sup> . LC, 24 July 1883.

behaviour of both Indians and Africans in order to secure and further entrench white authority in the region.

In presenting a powerful argument, Hulett began by reminding the House of the various laws restricting the free use of intoxicating liquors amongst the colony's African population. These had been passed "in order that the moral well-being of the natives may be preserved, and likewise that the large number of barbarians living in our midst might not by the free use of liquor demoralise themselves and work injury amongst us, among whom they live." Problems, however, had been experienced in the enforcement of these laws with the result that many were in practice inoperative. In Hulett's estimation, "magistrates throughout the Colony, especially in the coast districts, know very well that if there is any one cause of crime greater than another, it is that arising from drunkenness amongst the natives." He believed that drunkenness amongst Africans was on the increase and that "the quantity of liquor that is consumed at the present time is a matter of the greatest importance to their future well-being and government." <sup>(223)</sup> Hulett's concern for the well-being of Natal's African population must be regarded with some caution. While he may have been speaking with some sincerity, clearly he had vested interests in the sobriety of the Indian population. And as a white colonist he was naturally concerned about the security of the colony as a haven of white authority and development.

Hulett drew attention to the many thousands of Indians who had the "free, uncontrolled and untrammelled use of intoxicating liquor". <sup>(224)</sup> In the coastal districts of Natal, a large number of these Indians were allegedly engaged in a regular traffic in spirits - especially rum - with the Africans. The interior too was not exempt from such activity. Many Indians were engaged in cultivation near the African locations, but Hulett asserted that this was merely a front for the true nature of their business, a lucrative trade in liquor with the local African population.

The evils of liquor were also alleged to be demoralizing the Indians themselves: "those who were accustomed to employ these men know very well that the largest part of insubordination and crime amongst the Indians is the result of liquor." According to Hulett, Indians did not come to Natal in a demoralized state unless they were "the sweepings of the towns". In their own country Moslems and Hindus were virtually total abstainers, but soon after their arrival in Natal became demoralized by the readily available supply of intoxicating liquor. He believed that "in the interests of the Coolies themselves, in the interests of the large number that are now

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<sup>223</sup>. Ibid.

<sup>224</sup>. Ibid.

becoming free, and in the interests of the Kafirs, the time has arrived when something must be done to stop this free and, comparatively speaking, unrestricted use of liquor." <sup>(225)</sup>

Although the Indian Liquor Bill did not pass into law, three other pieces of liquor legislation were passed in 1884, indicating the importance which alcohol played in the life of the colony. Law No. 15, 1884 - "To provide for the levying of customs duties on spirituous and fermented liquors imported into the Colony of Natal from inland territories" <sup>(226)</sup> and Law No. 16, 1884 - "To amend Law 14, 1876, and to increase the duties leviable upon spirits distilled in the Colony of Natal" <sup>(227)</sup> were both intended to extract more revenue out of the liquor industry, while Law No. 47, 1884, dealt with the question of licensing boards.

The fact that Africans appeared to enjoy relatively easy access to alcohol, despite legislation against this practice, remained a source of grave anxiety to the colony's white population. Their fears were, more often than not, vested in self-interest. Early in 1884 loud complaints were made by residents on the Bluff that indiscriminate rum-selling was taking place there. It was claimed that African employees at different homesteads had "lately been in a chronic state of drunkenness" and the police had been called in to track down the individual responsible for this illicit trade. <sup>(228)</sup> According to the story of an African servant told to his employer, this trade was being conducted by a Portuguese man, who had appeared in court several times on a similar charge and whom the police had driven away from the Point. He had allegedly developed a unique way of avoiding detection. He erected a small table in the bush and then hid somewhere in its vicinity; an African who wanted to purchase rum, would place his money (1s. 6d.) on the table, give a peculiar call, and then retire for a few minutes. On returning he would find his money gone and a bottle of rum in its place. Unless he was caught red-handed, this ardent entrepreneur could continue to ply his trade and to meet the local demand for rum.

A correspondent to the Natal Mercury from Umtwalume in Alexandra County claimed that there was an enormous amount of drunkenness around the African stores which held store and hotel licenses in his area, and that Africans were served with bottles of rum of any quantity for which they chose to pay. <sup>(229)</sup> He claimed further that it

<sup>225</sup>. Ibid. For further details of the debate, see LC, 24 July 1883, 27 July 1883, 6 August 1883.

<sup>226</sup>. NGG, 30 Sept. 1884.

<sup>227</sup>. NGG, 21 Oct. 1884.

<sup>228</sup>. NM, 24 Jan. 1884.

<sup>229</sup>. NM, 26 March 1884.

was impossible for any stranger travelling the road between the Lower Umkomaas and the Lower Umzimkulu not to be "deeply impressed with the awful amount of demoralisation that is broadcast from these stores." <sup>(230)</sup>

A resident of Pinetown, W.A.B. Dales, complained bitterly that the local police were completely ineffective, contending that the constable was not doing his job: "Kafirs do get as much drink as they wish for here in Pinetown, and the white constable knows it, besides knowing the party who supplies them." <sup>(231)</sup> Dales reported that, on returning from church, "it was disgraceful to see the number of drunken kafirs and Cape boys rolling down the streets." <sup>(232)</sup> While the African police were busy running in two Cape boys, there were at least "ten raw kafirs, mad drunk, fighting, and screeching at the pitch of their voices." <sup>(233)</sup> As the lock-up was two kilometres from the centre of the village, it took the police some time to deliver a culprit, allowing the rest to allegedly carry on with license. Dales warned both the canteen-keeper and the constable to "look out". <sup>(234)</sup>

In 1884 Alexander reported that the increase in drunkenness was mostly the result of enforcing a new bye-law which empowered a constable to arrest anyone under the influence of liquor. <sup>(235)</sup> This law had been strictly carried out with regard to the African population. Alexander complained that an African found with a bottle of liquor in his possession was liable to a fine of 20s., but should the African, to prevent this, render himself drunk by drinking the contents of the bottle, he would only be liable to a fine of 5s. or 10s.. He contended that, since half the offences committed by Africans were committed when they were under the influence of liquor, they should be fined an equal amount for drinking liquor as for possessing it.

The effects of drinking to excess were not only financially damaging to the colony, but were also thought to retard the moral and spiritual growth of its people. The Natal Witness illustrated this point by showing the cost of drink to the people of the Cape Colony. <sup>(236)</sup> Working from the premise that the majority of crime was caused, directly or indirectly, by strong drink, the following figures represented the financial cost of drink to the Cape:-

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<sup>230</sup> . Ibid.

<sup>231</sup> . NM, 7 May 1884.

<sup>232</sup> . Ibid.

<sup>233</sup> . Ibid.

<sup>234</sup> . Ibid.

<sup>235</sup> . MM, Dbn, 1884.

<sup>236</sup> . NW, 18 August 1884, cited in Uitenhage Times.

Police and Gaols	£ 281 500
Judges, etc.	47 239
District Surgeons	7 612
Magistrates' Courts	25 127

(£ 431 478)

While some of the smaller items quoted included services not exclusively for crime, this was easily off-set by contingencies such as the rent of gaols and other buildings, office expenses, etc. In addition to this financial damage, there was also the incalculable loss to the region of the labour of those who were dragged down by drunkenness, crime and loafdom. The Times estimated that the material loss to the Cape through drink was £500 000 per annum. Since the consumption of intoxicating liquor of all sorts was about two million gallons per annum, this meant that every gallon consumed cost the Cape five shillings in punishing the crime caused by it. Therefore, in order to make up for this material loss, an average tax of five shillings per gallon would have to be levied, besides the cost of collection.

Natal was forced to grapple with the same problem as the Cape. Although the liquor industry brought considerable revenue to the colony, the drunkenness and crime which resulted from drinking alcohol cost the colony a great deal of money. Restrictive liquor legislation against the African population deprived the Government of a substantial amount of revenue and did very little to curb African drinking and drunkenness. Ultimately, the Government of Natal attempted to control the various elements involved in the liquor industry - brewers, distillers, canteen-keepers and drinkers - in order to extract the greatest possible revenue while still maintaining law, order and a measure of sobriety. It was an uneasy tight-rope to walk at the best of times.

The question of "kafir beer-drinking" had troubled Natal's white colonists from the earliest of times. There was a widespread perception among the colonists that Africans became fearfully drunk at these gatherings and perpetrated all sorts of outrages. The majority of African crime, especially cattle and sheep-stealing and stabbing, was alleged to come in the aftermath of "kafir" beer-drinks. These gatherings were also said to promote indolence and sexual immorality. In short, beer-drinking among Africans appeared to pose a massive threat to peace and security in the colony. It was something which whites misunderstood and feared. Their greatest fear was that hoards of drunken "kafirs" would overrun the region, committing crimes of violence and depravity. For these reasons, it was deemed to

be necessary to exercise some control over these gatherings in order to safeguard the future of the colony for white prosperity and development.

Such fears prompted Mr. Pretorius to request the Governor of Natal, as Supreme Chief over the African population, to prevent Africans from gathering together for the purpose of beer-drinking, or to impose a license on the making of such beer. He argued that "kafir" beer-drinkings were productive of a great deal of harm:

Beer-drinking among the Kafirs is very bad upcountry, and it grows worse and worse. I don't know what it is like here. The Kafirs make up parties and go from one kraal to another - I don't mean for marriage feasts, but simply for the purpose of beer-drinkings and dances. They have these drinkings at night, and when they return home, then is the time when sheep and goats are stolen. Farmers cannot keep their stock on their premises. They must leave them on the veldt, and there the sheep are at the mercy of these Kafirs when they go back to their homes.  
(<sup>237</sup>)

He also complained that whereas a white man who established a distillery had to pay for a license before he could brew and sell beer, Africans were permitted to make and sell beer without any license. He claimed to know of many cases where Africans sold large quantities of beer. Although some people argued that "kafir" beer was not strong, in his estimation it made Africans drunk and was the source of a great deal of mischief. More than half the cases brought before magistrates in which Africans were concerned were allegedly fights caused through beer-drinking. Pretorius claimed to live close to Africans and knew what went on amongst them day after day.

Mr. Boshoff and Mr. Mellersh both expressed similar sentiments. Mellersh believed that "nearly all the assaults, broken heads, and murders done up-country are caused by this beer-drinking." (<sup>238</sup>) There was nothing more intoxicating than "kafir" beer except raw rum. But whereas rum made them drunk, "kafir" beer was supposed to make them mad. Although Mellersh had seen Africans girls selling "kafir" beer in Estcourt, he did not believe that the Government could put a stop to it since it was impossible to stop the brewing of beer at home. On these grounds, he urged the withdrawal of the motion.

Mr. Hulett noted that "kafir" beer-drinkings not only caused "nearly all the troubles among the Africans" (<sup>239</sup>), but they were also the cause of a great deal of trouble

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<sup>237</sup>. LC, 26 June 1884.

<sup>238</sup>. Ibid.

<sup>239</sup>. Ibid.

between Africans and their employers. But if a law of this sort was passed, it would remain inoperative and impossible to implement. Instead, the Government should increase magisterial supervision over the Africans generally.

Mr. Walton produced evidence from a meeting of the Finance Committee with reference to this question. The magistracies which returned the largest revenue in fees and fines of court were those situated in the African locations. It was the universal opinion of the members of the Finance Committee that this arose entirely from beer-drinking. These fees and fines apparently increased in these districts when there had been a good harvest, and decreased in years of poor harvests, thus showing the relative position of beer to revenue. Walton believed that the Governor, as Supreme Chief, had ample power vested in him to regulate these beer-drinking parties. Such regulations existed in the Orange Free State, which produced a revenue sufficient to enable the authorities to employ increased police supervision for the checking of these beer-gatherings. <sup>(240)</sup> Walton considered that the Governor should issue an order that beer-drinkings were not to be carried out as before, that more circumspection should be exercised and that they should not be so frequently held in one district or in one homestead as they were at present. He believed that a simple regulation should be made forcing Africans who wished to have a gathering for the purpose of drinking beer to obtain a permit from either a Magistrate, or an Administrator of Native Law, or a Field Cornet. Such regulations would, in his opinion, "prevent a repetition of many of the scenes that now take place at these beer-drinkings." He acknowledged that it would be impossible to put them down altogether, but as a growing evil, some measures were necessary to regulate them. In addition, beer was being brought into towns and villages where it was retailed by African women, "causing perhaps more than one class of crime to be committed." <sup>(241)</sup>

Mr. Reynolds stated that the Mounted Police were "of no use whatever" in checking the disturbances and crime resulting from these beer-drinkings. <sup>(242)</sup> They were not even allowed to be present on these occasions. The Secretary for Native Affairs pointed out that the Native Administration Law of 1875 had removed from the Governor his powers as Supreme Chief. He therefore did not have the authority to intervene in this matter in that capacity. Mr. Garland suggested that a license or tax should be imposed on those who retail African beer and bring it into the towns. <sup>(243)</sup>

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<sup>240</sup> . In the Cape there was no prohibition against Africans drinking rum.

<sup>241</sup> . LC, 26 June 1884.

<sup>242</sup> . Ibid.

<sup>243</sup> . The Government did not act immediately on these sentiments and suggestions. No legislation was passed until Law No.

In 1885 attention was again focussed on the illicit trade in liquor. Attempts in 1883 to restrict the supply of alcohol to Indians, in order to alleviate African drunkenness and thereby ensure a firmer control over the African population, had failed to reach legislative fruition. Mr. Wood, the Member for Durban County, moved that more stringent measures should be adopted by the Government to suppress the illicit trade in spirituous liquors carried on in the colony "to the injury of the Native population, the public generally, and unfairness to the licensed dealer, and loss to the Revenue." He reminded the House that both "coolies" and white men were responsible for this trade, which was particularly rampant on the coast: "wherever Coolies are to be found, and where men keep shops under a licence, the Kafirs can get as much liquor as they choose, and not only that, but in the small shops or hotels in the locations an illicit trade is carried on to a very large extent." He claimed that most colonists knew "very well that the prisons are more or less filled by this illicit trade in the Colony." <sup>(244)</sup> It was the duty of the Government to protect the licensed dealer who usually got the credit for the drunkenness in his neighbourhood. In his opinion, the penalties enforced upon those found dealing in this trade were not sufficient to deter the offenders. An Indian had allegedly told him on more than one occasion that he could make out of one cask of rum more than the amount of any penalty that the Government could impose on him if he was found out. Wood considered that this illicit trade in liquor might be defeated by prescribing harsher penalties, recommending that a first offender be sentenced to six months' imprisonment without the option of a fine. <sup>(245)</sup>

After a lengthy debate, a motion was eventually formulated requesting the Governor to consider what steps should be taken to diminish the illicit traffic in liquor within the colony. Although most considered that this problem required an urgent remedy, the legislative process in colonial Natal often tended to be a slow and extended one, and the Colonial Secretary informed the House that it would be impossible to introduce any remedial measure during the present session of the Legislative Council.

In 1885 the members of the Missionary Conference petitioned the Lieutenant-Governor of Natal, drawing his attention to the increase in drunkenness amongst the African population and the continual evasion of the law by canteen-keepers and

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18 of 1888, "For regulating the sale of Kafir Beer, commonly known as *utywala*."

<sup>244</sup> . LC, 18 August 1885.

<sup>245</sup> . For further details of the debate, see LC, 18 August 1885, 24 August 1885.

unlicensed houses, as well as by Indian hawkers. <sup>(246)</sup> The petitioners urged upon the Governor the advisability of awarding a portion of the fines inflicted on conviction to the police and the necessity of refusing to grant licenses in localities where the existence of the houses would depend wholly, or in great measure, on trade with Africans. The replies of the various magistrates, to whom the petition was referred, indicated the prevalence of drinking amongst the Africans. The Government appeared to be fully alive to the 'evil' and it was felt that the necessity existed for an increased staff of police. Several of the magistrates suggested that they should have the power to imprison without the option of a fine, while others urged an increase in the penalties or else an increase in the size of the police force.

It appeared that many Africans were themselves concerned about the demoralisation of their people by the liquor of the white man. In 1885 an editorial of the African newspaper Native Opinion urged parliament to consider prohibiting the sale of brandy to African people:

The fact remains that if absolute restrictions on the sale of liquor to natives be made, we shall at once have a sober people who will have the question of the wherewithal they are to support their families constantly engaging their attention, and will turn their spending powers in other directions, which must indirectly recoup the precious revenue from this sale. There would, besides, be a good opportunity of building up the natives and of giving them some sort of self-government, thus making them useful citizens - changes which it is impossible to introduce among them at present as they are carried away mad with this traffic. <sup>(247)</sup>

Another publication, The Journal, reported that in a conversation with Chief Kama during his visit to Grahamstown, the chief had expressed his belief that canteens were the greatest curse of the African tribes. In his experience, all intelligent and responsible men in the different tribes were happy to have restrictions on the sale of drink. <sup>(248)</sup> These publications were focussing attention on one of the many side-effects of the 'great' European civilization, the abuse of alcohol. As stated earlier, drunkenness was a rarity in traditional Zulu society and alcoholism unknown. But contact with the white culture had introduced many Africans to the 'attractions' of white liquor and the resulting level of drunkenness was lamented by both chiefs and parents on the one hand, and by the colonists themselves on the other.

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<sup>246</sup>. NGG, 11 August 1891, Report of Select Committee on Liquor.

<sup>247</sup>. cited in NM, 2 March 1885.

<sup>248</sup>. cited in NM, 26 June 1886.

In 1886 the question of "native beer-drinkings" was again brought before the House. (249) Mr. Yonge moved that the Governor be requested to take the steps necessary for the prevention of crime and other evils arising from beer-drinking parties among the African population of Natal. He said that it was "a well known fact" that the labour system of the colony was "utterly demoralised" and that this demoralisation was brought about "more by the continual dances and *tshula* drinkings of many of the Kafirs than by any other means." Many employers of labour had learnt that Monday was the day upon which Africans recovered from the excesses of the previous Saturday and possibly Sunday. This indulgence often led to faction fights between rival groups. According to Yonge, the locations were becoming more and more closed in, and *utshwala* drinking and stock thefts were on the increase. It was supposed to be well known that a grand bout of *utshwala* drinking among Africans necessitated a feed on something more substantial than mealies, and if they had no flesh of their own, they were obliged to look for it elsewhere. The result was that the farming industry was becoming "almost an impossible vocation" for many of Natal's farming community. Yonge claimed to have lost 150 sheep in one lot during the past three months. These drinkings were apparently on the increase and were always greater in number in those years when the Africans enjoyed good harvests. In Yonge's opinion, "such a state of things [was] a disgrace to any Government and to any Colony." It was absolutely imperative that the Government should do something to mitigate the evil effects of these beer-drinkings so that the farming population might be able "to live undisturbed as respectable and flourishing Colonists." (250)

Certain members of the House, however, regarded these beer-drinks as positive festivities, perceiving them as an opportunity for Africans to release both physical and sexual energies, which might otherwise be unleashed against white property or worse still, white women. These gatherings were a necessary evil, a device by which the control of the African population could be facilitated. (251)

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<sup>249</sup>. In 1884 Mr. Pretorius had asked the Governor of Natal to prevent Africans gathering together for the purpose of drinking *utshwala*, or to impose a license on the manufacture of such beer, but the Governor had failed to respond to these demands.

<sup>250</sup>. LC, 23 Nov. 1886.

<sup>251</sup>. For further details of the debate, see Ibid. The matter was handed over to the Lieutenant-Governor for his attention and action, but no remedial action was taken until 1888 when Law No. 18, 1888, "For regulating the sale of Kafir Beer, commonly known as utywala", was passed.

In 1887 the Indian Immigrants Commission (Wragg Commission) <sup>(252)</sup>, appointed to investigate the condition of the Indian population in Natal and to make recommendations for their future government, reported that the evidence of numerous witnesses and the available criminal statistics had failed to convince them that drunkenness, and the crime resulting therefrom, was more prevalent amongst Indian immigrants than amongst other sections of the community against whom no such restrictive legislation was proposed. <sup>(253)</sup> The Commission produced statistical evidence to support its claim. <sup>(254)</sup> The following table reflects thefts and assaults committed by Indians and Africans in the Borough of Durban for the period 1876-1884:-

Convictions for Theft and Assault in the  
Borough of Durban (1876-84)

	<u>INDIANS</u>			<u>AFRICANS</u>		
	<u>Population</u>	<u>Thefts</u>	<u>Assaults</u>	<u>Population</u>	<u>Thefts</u>	<u>Assaults</u>
1876	1 450	29	8	2 903	126	33
1877	1 999	24	10	3 177	69	30
1878	2 538	16	11	3 313	51	10
1879	2 973	60	24	3 057	142	22
1880	3 309	73	13	3 817	116	28
1881	3 224	96	21	3 480	139	26
1882	3 130	80	27	4 367	161	36
1883	4 169	95	28	3 812	146	37
1884	3 867	93	47	4 220	141	41
	(26 659)	(566)	(189)	(32 146)	(1 091)	(263)

<sup>252</sup>. The Commissioners were W.T. Wragg, a Puisne Judge of the Supreme Court, resident at 43 Burger Street, Pietermaritzburg; J.R. Saunders, a Justice of the Peace and cotton planter from Tongaat; R. Lewer, Brigade-Surgeon Medical Staff and Senior Medical Officer of Natal; H.F. Richardson, a farmer from Faulklands near Maritzburg. Saunders, in particular, would have had a vested interest in the efficacy and subservience of Indian indentured labour. The evidence given before the Wragg Commission provides some important insights into the drinking habits of Natal's Indian population. The Commissioners took their brief seriously and interviewed a number of Government and municipal officials, Resident Magistrates, sugar estate managers, medical doctors, businessmen, ministers of religion, and white and Indian residents. For details of evidence, see Report of Indian Immigrants Commission (1885-1887), supplement to NGG, 20 September, 11 October, 18 October, 25 October, 1 November 1887.

<sup>253</sup>. The reference is probably to the white population since Africans were already subject to Law No. 22, 1878, "To prohibit the sale and disposal of spirits and other intoxicating liquors to persons of the Native race."

<sup>254</sup>. Report of Indian Immigrants Commission (1885-1887), supplement to NGG, 20 Sept. 1887.

These figures reveal that for the nine year period 1876-1884, one in every 29 Africans was charged with theft, whereas only one in every 47 Indians was charged with the same offence. With regard to assaults, one in 141 Indians was an offender, while amongst Africans the ratio was one in 122. The Commission noted that these proportions were greatly in favour of the Indians and there was little proof that drunkenness caused Indians to commit the thefts tabulated above. Indeed, the Commission felt that "the skill and concentrated thought, usually requisite for the successful accomplishment of such crimes, are incompatible with the theory of habitual drunkenness." <sup>(255)</sup> Alexander, the Superintendent of Police at Durban, concurred with the opinion of the Commissioners: while regarding drunkenness as "a habitual offence with the ordinary coolie", he was quick to add that "few commit petty thefts." Alexander was also of the opinion that the assaults committed by Indians were not connected with drunkenness: "the most serious offences are caused by their women who are constantly forgetting to whom they are married, which I don't wonder at much as the mothers of some of the girls also forget and often sell, or promise, their daughters to several different men." <sup>(256)</sup>

The Commission had no doubt that Africans readily obtained ardent liquors through the agency of Indians. They found that in the Borough of Durban in the nine years from 1876 to 1884, 514 Indians were charged with supplying liquor to Africans in contravention of Law No. 18 of 1863, and of Law No. 22 of 1878. However, they expressed serious doubts that the Indian population were more guilty than the white people who were involved in the liquor traffic. Rather, the people who made the loudest complaints against the Indian immigrants for selling or disposing of liquor to the Africans, were the very persons who themselves sold liquor to African; their trade was interfered with, and their profits were lessened, by the competition of Indian liquor traffickers.

The Commissioners noted that it was a fact that Indians in Natal did drink intoxicating liquors to a greater extent than in their own country and in this regard had certainly fallen away from their high standard in India. In 1883 the Natal Emigration Agent at Calcutta had written to the Protector at Durban, outlining the position of Indians with respect to the consumption of alcohol. The population of India was mainly composed of Hindus and Moslems who, while on their native soil, seldom indulged in intoxicating liquors. Amongst the Hindus, however, there were men who imbibed alcohol. These were the lower classes of labourers, such as Chamar, Dosand, Cole, Veel and the common Madrassesees, who indulged in liquor

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<sup>255</sup> . Ibid.

<sup>256</sup> . Ibid.

on occasions of festivity, but were seldom habituated to its use. The higher orders of Hindus, such as Chuttries, Bhooyear, Baniyas and Brahmins, were intensely averse to the use of any sort of intoxicating liquors. Both they and the Moslems were strictly forbidden by their religions even to touch them in any form except as medicine.

However, according to the Emigration Agent, matters began to take a turn for the worse as soon as Indians embarked to leave their native land: "The Hindu emigrants are compelled to throw off their caste prejudices, having to eat their meals in company with Mahomedans on board ship. Their religious prejudices are thus shaken, and they begin to acquire the evil habit of drinking, become gradually accustomed to it, and not only lose their first aversion towards the use of intoxicating liquor, but conceive a certain fondness for it, and at last many of them turn out habitual spirit drinkers." <sup>(257)</sup>

The Agent had seen a number of Indians detained in the Depot in India for four months awaiting embarkation without requiring or asking for any intoxicating drinks. But emigrants who wanted to re-emigrate "frequently used [intoxicating liquor] as a common necessary of life" even during their short stay in the Depot. There were likewise "instances" of drunkenness amongst emigrants who had just returned from the colonies, resulting in "their utter ruin". Notwithstanding repeated warnings given them by the Emigration Agents in India to take care of themselves and their money, Indians were allegedly "robbed of every pice they have with them while in a state of insensibility from drunkenness." <sup>(258)</sup> Clearly, contact with the European civilization also impacted negatively on the Indian population of Natal and many of their traditional customs were destroyed by the hostile cultural environment which they encountered in the colony. In particular, drunkenness became a way of life for many Indians who had been released from the restraints of traditional Indian society and found that in Natal they were free to imbibe lustily of spirituous liquors, subject only to the laws of the colony. Given the lowly socio-economic state of indentured labourers and the often miserable living and working conditions on the plantations, their reliance on alcohol is not surprising. Ironically, those Indians who embraced the new 'civilization' and the high level of drunkenness which was often a concomitant, were condemned by whites for their immorality.

In the light of the evidence of the Emigration Officer, who had apparently had "ample opportunities" for observing returning emigrants, and their own belief that Indians in Natal, especially free Indians, surrendered themselves to the drinking of intoxicating

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<sup>257</sup>. Ibid.

<sup>258</sup>. Ibid. A pice is the smallest unit of Indian currency.

liquors to a greater extent than in their own country, the Commission concluded that in the interests of the Indians themselves, some "just attempt" should be made to restrict the sale of liquor to this section of the community. But the Commission did not regard the restrictive bill then under consideration in the Legislative Council as a just attempt to solve the problem. It considered that it would not be fair to apply such a law to any Indian immigrants already in the colony or who might be engaged for Natal before the passing of such a law became known. But if existing emigrants were excluded from the bill, this would mean that no fewer than 30 000 Indians would be free to purchase and to possess intoxicating liquors, thus defeating the object of the bill. The Commission also feared that the restrictions of the proposed law would serve to check emigration from India to Natal, thus injuring the interests of Natal employers, notably to the detriment of sugar planters. The Commission did appear to have the interests of the Indians at heart and was determined that this section of the community should not be prejudiced. It noted that if the proposed law included the white population of Natal, the question would "assume a different aspect." <sup>(259)</sup>

As the 1880s drew to a close, the question of African beer-drinking was still causing a great deal of concern in the minds and hearts of Natal's white population. This question had been discussed at length in the Legislative Council in both 1884 and 1886, but the authorities had failed to take any concrete action to subdue what the majority of colonists perceived as a growing social evil. Once again, Natal's white colonists felt the need to control an activity which appeared to threaten both their persons and their property. They believed that these beer-drinks gave rise to a great deal of 'evil' - insubordination, crime, sexual immorality, violence and increased indolence - and that only regulation could ensure the future dominance of white authority in the region. The fact that they were interfering with a traditional custom of the Zulu people was of little concern to the white colonist who justified his intervention and control on the grounds that he was attempting to ensure the moral upliftment of heathen and savage people.

In a special report to the Durban Corporation, the Superintendent of Police drew attention to the great amount of beer-drinking that was taking place outside the borough boundary by Africans between Saturday night and Monday morning. <sup>(260)</sup> A large number of African servants from town apparently attended these sessions, and since the beer was strongly mixed with Natal rum, the practice was, in his opinion,

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<sup>259</sup>. Report of Indian Immigrants Commission, NGG, 20 Sept. 1887..

<sup>260</sup>. NM, 20 Dec. 1887.

becoming a dangerous custom in the neighbourhood. The matter was considered so serious that it was resolved that a copy of the report should be sent to the Colonial Secretary.

In the village of Westville there were two "kafir" beer-shops in close vicinity to each other. On Sundays in particular, they reportedly conducted a roaring trade, much to the annoyance of the white people living in the area. <sup>(261)</sup> Rumours were rife that something stronger than "kafir" beer was being sold at these places and that if the field-cornet was to pay them a visit on a Sunday, he would find these beer-shops "full of riotous natives". <sup>(262)</sup> The fact that one of these houses was being conducted from the house of an African woman seemed to indicate that the situation was even more intolerable. In addition, in the eyes of whites, the fact that these beer-shops were licensed and therefore legal, appeared to place a stamp of official approval on African drunkenness. Residents complained that the judicial authorities were failing to take firm action against these beer-shops and on occasions appeared to be on the side of the Africans. A local magistrate was reported to have said that "Kafirs had as much right to get drunk and make a row, or even get up a fight, as any white man." <sup>(263)</sup> A resident of Pinetown claimed that his brother, while walking home in the evening, had been attacked by Africans with sticks and stones, but none of these men, though they acted (in his opinion) under the influence of liquor, was punished; all they received from the courts was a mild rebuke. <sup>(264)</sup> Violent fights were also alleged to take place at these houses.

The white residents of Maritzburg were also most concerned about the question of African beer-houses and Sunday closing. It was particularly irksome to them that the owners of African beer-houses were permitted to sell liquor on a Sunday, while white canteen-keepers were not afforded this privilege. The Superintendent of Police stated that African beer-houses had long been allowed to conduct business on a Sunday. He argued that these houses did their best trade on Sundays and if they were compelled to shut up on this day, many would be forced to throw up their license. These beer-shop owners would probably then join the ranks of the illicit trade. In addition, the Superintendent remarked that these beer-shops were located away from all European dwellings and therefore did not constitute a danger or disturbance to the white population. <sup>(265)</sup> Although the Superintendent was supported by Mr. O'Meara on this question, others on the Pietermaritzburg Town Council, such as Messrs. Bale and Mason, regarded the Sunday opening of African

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<sup>261</sup> . NM, 15 June 1888.

<sup>262</sup> . Ibid.

<sup>263</sup> . NM, 3 July 1888.

<sup>264</sup> . NM, 25 Sept. 1888.

<sup>265</sup> . NW, 5 Oct. 1887.

beer-shops as a "disgraceful thing" and would not tolerate it any longer. The Mayor suggested that the police should be requested to strictly enforce bye-law 168, which dealt with the question of Sunday trading, and this course was adopted. <sup>(266)</sup> Clearly, the whites of Natal did not enjoy the rare instance of discrimination against themselves, but they were more than willing to perpetuate a host of unfair and discriminatory restrictions against the black residents of the region. Around this time, the police were also instructed by the Council to enforce bye-law 58, preventing Africans from carrying cudgels or assembling on the pavements on Sundays. <sup>(267)</sup>

The editor of the Natal Mercury summed up the opinion of many colonists when he stated that the spread of "kafir" beer-houses "is an evil that appeals for immediate remedial treatment." <sup>(268)</sup> He regarded the previous "absence" of drunkenness among the African population as "one of the most pleasing features of our borough life, and one of the most satisfactory proofs of the efficacy of our local liquor laws." <sup>(269)</sup> The Superintendent of Police also called attention to this "growing evil", which, if allowed to continue, would demoralise all their African servants: "Beer-houses were springing up at every corner, the drink therein to be obtained being largely adulterated with Natal rum, and consequently causing much intoxication. The houses were used for the decoying of young girls for prostitution." <sup>(270)</sup> He recommended that no premises should be permitted to be let for beer-houses. In his opinion, the scarcity of work in Durban was in some measure due to the high wages paid to togt Africans working at the Point, who every week spent a day or two at the beer-shop until their money was gone. The editor of the Natal Mercury regarded the Superintendent's report as a very serious and vital disclosure: "It reveals a fact that must strike at the roots of social sobriety and good order. If natives are able to procure intoxicants, under another name, crimes of violence and outrage are certain to become rampant, and native parents will refuse to allow their girls and children to seek service in town, to the great inconvenience of householders." <sup>(271)</sup> As usual, social security and self-interest were foremost in the minds of the white colonists. The editor recommended that coffee-houses be substituted for beer-houses and that the police should exercise a vigilant supervision over every place of African refreshment. The editor repeated the long-standing stance of the Natal Mercury that special quarters or locations should be set up for both Indians and Africans, under

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<sup>266</sup> . Ibid.

<sup>267</sup> . NW, 3 Oct. 1888.

<sup>268</sup> . NM, 29 Nov. 1888.

<sup>269</sup> . Ibid.

<sup>270</sup> . NM, 27 Nov. 1888.

<sup>271</sup> . NM, 29 Nov. 1888.

special regulations and surveillance, in order to alleviate the threat which black drunkenness posed to the white residents of the Borough of Durban.

In 1888 the Secretary for Native Affairs, in response to the foregoing complaints, introduced a "Kafir Beer Bill" (No. 12, 1888) into the Legislative Council. The object of the bill was the regulation of the sale of "kafir" beer outside the various boroughs of the colony. The Durban Town Council had brought the matter to the attention of the Government, contending that there were numerous beer-shops in the close vicinity of the boundaries of the Corporation, at which the sale of beer was unrestricted and over which they had no control. On Saturdays and Sundays in particular, the Africans of Durban frequented these places, becoming "more or less excited", <sup>(272)</sup> and creating a disturbance on their return. He claimed that not only beer was sold in these places, but also stronger liquors. As these beer-shops were on private property, there could be no control over them and the Government considered that the best way to regulate these matters was to impose licenses on all beer-shops. In addition, the bill provided that any person wishing to keep a beer-shop should apply to the magistrate for permission to sell beer there. The magistrate would be required to post the notice and if any objections were brought before him, he would consider them and reach a decision. Beer-shops would become subject to the legislation regulating the sale of spirituous liquors in the colony, Ordinance No. 9 of 1847, and Law No. 23 of 1878. Half the penalty imposed by the magistrate for an offence against the proposed law would be given to the informer. <sup>(273)</sup>

Mr. Yonge's contribution to the debate personifies all that was worst in white colonial racial thinking: "I have no intention to allow the Native to suppose that we intend to show any great amount of reverence for their ancient constitutional customs. The sooner we set to work to knock their customs on the head the better it will be for the Native and the white man, and the progress and prosperity of this Colony." <sup>(274)</sup> Men like Yonge believed that Africans needed to be 'educated' into the white culture, supposedly for the benefit of both parties. But history has shown that it was the whites who stood to gain the most from this cultural transformation. In particular, labour and industry were cornerstones of the Anglo-Saxon culture; their virtues would have to be impressed on "the native mind".

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<sup>272</sup>. LC, 9 August 1888.

<sup>273</sup>. Ibid.

<sup>274</sup>. LC, 13 August 1888.

The bill passed into law as Law No. 18, 1888, "For regulating the sale of Kafir Beer, commonly known as *utywala*." <sup>(275)</sup> But like much of the previous liquor legislation, the new law did not appear to achieve its purpose. By the following year, the Mayor of Durban was still complaining that large amounts of African beer were being produced on the Eastern and Western Vlei and the Berea. It was allegedly sold in houses inhabited by African prostitutes and was often mixed with spirituous liquor. On Sundays in particular, African domestics visited the beer-houses on the flats and on Monday the court was occupied with cases of drunkenness. Although the Colonial Beer Law, No. 23 of 1863, stated that the license for manufacture should be £15, and the license for sale £7, there was an enormous sale and manufacture going on without a single license. In terms of Law No. 22 of 1878, the penalty for selling liquor without a license was £10 or three months' imprisonment. The Mayor moved that "the Superintendent of Police be instructed to vigorously enforce the regulations of these acts." <sup>(276)</sup> Indeed, many residents believed that the police were not doing their duty. The Police Committee recommended that the Resident Magistrate be requested to increase the fine for drunkenness in an attempt to curb the increase of this phenomenon, but the Durban Corporation turned down their request. <sup>(277)</sup>

It was alleged that many of these African beer-houses were being transformed into drinking dens where activities of a criminal nature were planned: "Amongst the frequenters are the counterparts of the lowest types of Europeans, who swaggeringly urge that they should down [drinks] with all authority. There many matters are discussed, such as the black sheep of all communities love to talk about. They know when authority is impeached and talk about it. The fines imposed upon offenders are discussed and gloated over when light." <sup>(278)</sup> It was further alleged that the recent disturbances at the race-course had been hatched in these dens, where a kind of pass word had been adopted. The *Mercury's* correspondent, 'Man on the Moon', believed that all Africans under the influence of liquor should be fined since the law forbade them any access to intoxicating drink. If this principle was not rigorously enforced, the evil would never be kept down.

During 1889 the number of Africans convicted for drunkenness in the Borough of Durban increased by 355 cases (or 38%), the largest annual increase for the period under review. Alexander considered that "nothing but the fullest penalty of the Law for supplying them [Africans] with liquor, and they for getting drunk, will prevent this evil from demoralising the whole race of them here." As long as Africans continued

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<sup>275</sup>. For details of the law, see *NGG*, 9 Oct. 1888.

<sup>276</sup>. *NM*, 26 July 1889.

<sup>277</sup>. *NM*, 5 July 1889.

<sup>278</sup>. *NM*, 24 August 1889.

to live "in our midst", it would be difficult to keep a firm check upon their actions and to prevent them from obtaining intoxicating liquors. <sup>(279)</sup>

The advocates of temperance had not yet exhausted themselves and several organizations were still plugging away manfully, and sometimes womanfully, against drunkenness and all its attendant evils. The Good Templars and the Unity Band of Hope were particularly active in the Durban area. In Pietermaritzburg organizations such as the St. Saviour's Temperance Guild, the Safeguard Lodge of Good Templars and the St. Patrick's Temperance Society came onto the scene. On Saturday 28 May 1888 700 children of the Blue Ribbon Mission marched through the streets of Maritzburg in the cause of temperance. Over 1 000 people were present to witness this demonstration. In the evening a public meeting in connection with the day's demonstration was held in the Wesleyan Church in Chapel Street. The building was apparently crowded and on the platform were ministers and laymen representing all denominations. Mr. Henry Bale, who presided over the meeting, reported on the progress of the temperance movement and the important role it had to play:

In Maritzburg the progress made in the cause was particularly noticeable, and it was gratifying to see so many of the rising generation banding themselves together in the endeavour to stamp out what was the bane of every country and of South Africa in particular - strong drink. It was his opinion that the lesson of temperance could not be taught. Total abstinence was the best, for some were not strong enough to use liquor moderately, and many strong men had fallen through the adoption of this principle. Temperance societies should make their influence felt as much and as widely as possible. They should even bring their power to bear on the Legislative Council, and on all other public bodies, including the Town Council, for it was a matter worthy of notice that whilst the latter allowed the temptation of strong drink to exist, they went to the other extreme and fined men for getting drunk. <sup>(280)</sup>

New temperance associations were formed at regular intervals, thus in some measure keeping up the pressure against the advocates of drink. In 1889 both the Congregational Band of Hope and the Baptist Band of Hope were initiated in Maritzburg, <sup>(281)</sup> while in Durban the Work Guild of the Women's Christian Temperance Union was formed. <sup>(282)</sup> The existence of such organizations shows

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<sup>279</sup> . MM, Dbn, 1889.

<sup>280</sup> . NW, 28 May 1888.

<sup>281</sup> . NW, 18 July 1889; NW, 13 Nov. 1891.

<sup>282</sup> . NW, 19 Dec. 1889.

that, at least in certain quarters, the phenomenon of white drunkenness was still regarded as a serious social ill, worthy of concern and treatment. These organizations focussed their attentions on white drunkenness, having little time for the growing number of African and Indian drunkards.

Although the valiant efforts of the various temperance organizations should be applauded, so often it was a case of the converted addressing the converted. While liquor was legal and pleasing to the palate, those who sought to take it away would always be on a hiding to nothing. Too many people had too much to lose: drinkers, understandably, did not want to give up one of their favourite pastimes, while for those involved in the liquor business, it was clearly a bread and butter issue. For those on the bottom rungs of the societal ladder, drink often provided the only solace in an otherwise miserable existence.

On occasions, however, the rhetoric of temperance did appear to have some practical effect. In July 1888 a Mr. Harry Miller delivered a series of lectures on the subject in Maritzburg. The Natal Mercury reported that canteen-keepers were "crying out loudly" against these lectures, claiming that they had lost a "considerable amount" of trade, and that if this lecturer remained in the city much longer, they would have to shut up shop and seek new pastures. Of those who had "taken the blue" [i.e., converted to temperance] during the past week, the majority were allegedly those who had previously been liberal supporters of the canteen-keepers.

(<sup>283</sup>)

By the end of the decade drunkenness in the Borough of Durban was still considered to be a social problem of serious proportions and constituted an alarming 49.9% of all crime in the borough. The restrictive liquor legislation passed during this and previous decades had generally failed to influence the incidence of drunkenness in a positive direction. No other crime or social problem was as prevalent or visible as the drunkenness perpetuated by all sections of the borough's population. It is important to examine the changing economic state of the colony during the 1880s in order to determine the extent to which the economy influenced the level of drunkenness. At the start of the decade (1880-1) Natal enjoyed economic prosperity as a direct result of a diamond boom. During 1881, however, there was a diamond crisis, followed by a severe economic depression from 1882-6. The economy began to revive once again towards the end of 1886 and then moved into a period of prosperity from 1887 until the end of the decade. The table below reflects the number of convictions for drunkenness in the Borough of Durban during the period

<sup>283</sup>. NW, 24 July 1888.

1880-9, the total number of offences (all crimes) committed and the percentage which drunkenness constituted of the total offences:- <sup>(284)</sup>

Convictions for Drunkenness in the Borough of Durban (1880-9)

	Whites	Indians	Africans	Total	Total Offences	Percentage Drunkenness
1880	1 767		376	2 143	8 133	26.3
1881	1 165		366	1 531	7 834	19.5
1882	903		262	1 165	5 528	21.1
1883	1 124		495	1 619	6 135	26.4
1884	1 134		654	1 788	5 184	34.5
1885	1 371		923	2 294	5 310	43.2
1886	1 313		719	2 032	4 543	44.7
1887	1 513		839	2 352	5 028	46.8
1888	1 477		944	2 421	5 338	45.2
1889	1 712		1 299	3 011	6 029	49.9
	(13 479)		(6 877)	(20 356)	(59 062)	(34.5)

The above figures indicate that there was often a direct correlation between the state of the economy and the incidence of drunkenness in the Borough of Durban.

Between 1880 and 1886, a period dominated by economic uncertainty and depression, the level of drunkenness actually decreased slightly (by 5%), suggesting that the borough's population was spending their reduced resources on more important goods such as food. The population as a whole, no doubt anxious about their relatively poor financial state, appeared to be managing their finances more sensibly and had cut down on social drinking, thus reducing the incidence of drunkenness. Durban's African population, however, had not contributed to this decline in drunkenness. On the contrary, African drunkenness more than doubled during this very period. Thus while white and Indian drunkenness was decreasing by 26%, African drunkenness was showing rampant increases. Durban's African population must have been exhausting their meagre resources on alcohol to such an extent that the depressed state of the economy failed to exercise any retarding influence on their drinking habits. They were also probably victims of police enforcement of a new bye-law which empowered a constable to arrest anyone under the influence of liquor. According to Superintendent Alexander, this law had been strictly carried out with regard to the African population. <sup>(285)</sup> He also believed that "through the great increase in wages they receive, more than some labouring men in England", Africans were becoming "fond" of drink. <sup>(286)</sup>

<sup>284</sup> . MM, Dbn, 1880-1889.

<sup>285</sup> . MM, Dbn, 1884.

<sup>286</sup> . MM, Dbn, 1880.

During the latter half of the decade (1886-9) the level of drunkenness in the borough rose by a dramatic 48%, suggesting that many residents were returning to a habit which had always proven to be sociable and psychologically comforting. The economic prosperity of these years undoubtedly contributed to the increase in drunkenness. Not only would men, having renewed resources at their disposal, have been financially more capable of heavy drinking, but the improvement in the economy would have given them a more positive outlook on life generally, thus giving rise to a great deal of hearty drinking. These factors combined to increase drunkenness among all sections of the borough's population. But it was the African population which contributed most significantly to this increase, evidence that African people were succumbing to the European vice of drinking strong alcoholic drink in ever increasing numbers. During this period (1886-9) white and Indian drunkenness increased by 30%, but was far outstripped by African drunkenness which soared by 81%.

In addition to the proliferation of legal liquor outlets where a man could acquire a drink, there was also a substantial illicit trade to satisfy the tastes of all Natalians. By 1889 there were 12 rum distilleries in the Inanda Division of Victoria County and a further distillery in the County of Alexandra. During the decade Natal had continued to export large quantities of rum (<sup>287</sup>), an indication that it was producing sufficient rum to satisfy the demands of both the domestic and the export market. In addition, the import of spirits, wine and beer meant that Natal possessed sufficient alcohol to satisfy the tastes of the most discerning drinker. In 1889 liquor imports amounted to 645 012 gallons (2 902 554 litres) of ale, beer and cider, 305 083 gallons (1 372 874 litres) of spirits and 111 361 gallons (501 125 litres) of wine. A further 1 175 gallons (5 288 litres) of spirits and 368 gallons (1 656 litres) of wine was imported for the specific use of the officers of Her Majesty's service. Given the prevalence of liquor outlets (canteens and illicit houses in particular), the widespread availability of drink and the general scarcity of recreational facilities (particularly for the black population), it is not surprising that drinking became one of the colony's favourite pastimes.

Bounded by restrictive legislation, the African population was forced to rely almost entirely on the back-doors of white canteens, Indian middle-men and African liquor entrepreneurs to acquire the European spirits and the African *isishimiyana* which they desired. The increasing level of African drunkenness in Natal generally and the Borough of Durban in particular is clear evidence that the liquor laws were proving

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<sup>287</sup>. The highest figure for the decade was achieved in 1884 when 167 752 gallons (754 884 litres) of rum, valued at £6 228 was exported from the colony. NBB, Vol. 2, 1884.

incapable of preventing Africans from acquiring spirituous liquors and that this particular mechanism of control needed to be revised. The return below shows the number of cases in which the licenses of hotel and canteen-keepers were suspended and convictions obtained under Law No. 22, 1878 ("To prohibit the sale and disposal of spirits and other intoxicating liquors to persons of the Native race"), during the five year period 1886-1890 (<sup>288</sup>):-

Convictions for Contravention of Law No. 22, 1878  
in the Colony of Natal (1886-90)

<u>MAGISTRACIES</u>	<u>LICENSES SUSPENDED</u>	<u>CONVICTIONS NUMBER OBTAINED</u>	<u>NATIONALITY</u>
City	nil	19	8 W, 10 I, 1 A.
Umgeni	nil	2	2 A.
Lion's River	nil	2	1 W, 1 I.
Durban	nil	195	41 W, 112 I, 42 A.
Umlazi	2	50	4 W, 46 I & A.
Klip River	nil	9	
Newcastle	1	22	
Inanda	nil	32	
Lower Tugela	nil	5	
Umvoti	nil	2	2 W.
Weenen	nil	31	5 W, 5 I, 21 A.
Alexandra	1	8	
Umzimkulu	nil	0	
Alfred	2	7	
Upper Umkomanzi	ni	0	
Ixopo	nil	3	3 W.
Umsinga	nil	4	4 W.
Ipolela	nil	0	

The table below reflects the number of people convicted (under Law No. 18, 1863) in the Borough of Durban for supplying liquor to Africans during the period 1880-9. The number of convictions probably represents only a small proportion of the illicit liquor transactions which were actually conducted:- (<sup>289</sup>)

Convictions for Supplying Africans with Liquor  
in the Borough of Durban (1880-9)

1880	59
1881	67
1882	60
1883	39
1884	44
1885	14
1886	60
1887	37
1888	40
1889	59 (479)

<sup>288</sup>. NGG, 13 May 1890.

<sup>289</sup>. MM, Dbn, 1880-1889.

The following table reflects the number of Africans convicted in the Borough of Durban for having liquor in their possession during the period 1879-1889:- <sup>(290)</sup>

Convictions of Africans found with Liquor in their Possession  
in the Borough of Durban (1879-89)

1879	38
1880	243
1881	195
1882	118
1883	175
1884	126
1885	122
1886	76
1887	70
1888	98
1889	106

(1 367)

There is no correlation between the incidence of African drunkenness and the number of Africans convicted for having liquor in their possession. For example, convictions for drunkenness peaked in 1889, while convictions of Africans for being found with liquor in their possession reached a high as early as 1880. Clearly official policy and the attitude of the police exercised a decisive influence on the rate of prosecution and conviction for both the above offences.

Throughout the 1880s the combined white and Indian populations were responsible for the majority of drunkenness in the Borough of Durban. The prevalence of white drunkenness, however, was generally ignored by white residents who focussed their attentions on the perceived threat posed by Indian and African drunkenness. The fact that African drunkenness was on the increase and that Africans were contributing an increasing proportion of the total drunkenness perpetuated in the borough was a grave source of concern to the white colonists. The table below reflects the percentage of drunkenness committed by each section of the borough's population during the period 1880-9 <sup>(291)</sup>:-

<sup>290</sup>. MM, Dbn, 1879-1889.

<sup>291</sup>. Unfortunately the Police Reports in the Mayor's Minute do not give separate figures for whites and Indians. Therefore, these groups have to be considered together.

Percentage of Total Drunkenness committed in the Borough of  
Durban by Whites, Indians and Africans (1880-9)

	<u>Whites &amp; Indians</u>	<u>Africans</u>
1880	82.5	17.5
1881	76.1	23.9
1882	77.5	22.5
1883	69.4	30.6
1884	63.4	36.6
1885	59.8	40.2
1886	64.6	35.4
1887	64.3	35.7
1888	61.0	39.0
1889	56.9	43.1

It is also useful to consider the incidence of white, Indian and African drunkenness in relation to the size of the population of each race group resident in the Borough of Durban. The table below illustrates the approximate proportion of whites and Indians, and Africans convicted for drunkenness in the Borough of Durban for the period 1880-9:-<sup>292</sup>

Relationship between Population and Drunkenness  
in the Borough of Durban (1880-9)

	<u>Population</u>	<u>Convictions</u>	<u>Percentage Convicted</u>
1880	Africans: 3 817 Whites/ Indians : 10 045	376  1 767	9.9  17.6
1881	Africans: 3 817 Whites/ Indians : 10 718	366  1 165	9.6  10.9
1882	Africans: 4 367 Whites/ Indians : 10 904	262  903	6.0  8.3
1883	Africans: 3 812 Whites/ Indians : 12 465	495  1 124	13.0  9.0
1884	Africans: 4 220 Whites/ Indians : 12 410	654  1 134	15.5  9.1
1885	Africans: 4 521 Whites/ Indians : 12 606	923  1 371	20.4  10.9

<sup>292</sup>. MM, Dbn, 1880-1889.

1886	Africans: 4 385	719	16.4
	Whites/ Indians : 12 046	1 313	10.9
1887	Africans: 4 561	839	18.4
	Whites/ Indians : 12 382	1 513	12.2
1888	Africans: 5 057	944	18.7
	Whites/ Indians : 13 376	1 477	11.0
1889	Africans: 6 034	1 299	21.5
	Whites/ Indians : 14 712	1 712	11.6

The above table reveals two distinct trends. During the early part of the 1880s (1880-2) a smaller percentage of Africans was convicted for drunkenness than whites and Indians, suggesting that white and Indian drunkenness, as was the case throughout the 1870s, remained a more serious social problem than African drunkenness. This phenomenon, however, was ignored by the custodians of white civilization who continued to focus their attentions on the prevalence of African drunkenness in particular and Indian drunkenness to a lesser extent. During this period the incidence of drunkenness amongst all the population groups declined and a smaller percentage of each group was convicted. But the gap between African and white/Indian drunkenness was narrowing, an ominous development for the future condition of Natal's African people.

During the remainder of the decade (1883-9), however, the myth of African drunkenness, perpetuated for so many years by white colonists who feared being swamped by the large African population and were anxious to entrench their control over these people, became an increasing reality. By 1889 21.5% (one in five) of Africans in the Borough of Durban were convicted for drunkenness, while only 11.6% (one in nine) of the combined white and Indian populations was found guilty for this misdemeanor. <sup>(293)</sup> Back in 1882, the high-point of the decade for sobriety, only 6% (one in 17) of Africans and 8.3% (one in 12) of the white/Indian population had been convicted for drunkenness, a clear indication of the 'progress' which the vice of drunkenness was making in the borough, particularly among the African people. <sup>(294)</sup>

<sup>293</sup>. As stated earlier, the weakness of this method is that it assumes that each person was only convicted once. It makes no allowance for frequent offenders. However, it does provide a general indication of the proportion of each race convicted for drunkenness.

<sup>294</sup>. The progress of drunkenness is even more marked if one makes a comparison with the early 1860s. In 1864 a mere 1.6% of Africans in the Borough of Durban was convicted for drunkenness. And by 1870 only 2.4% of Africans, 2.6%

From the mid-1880s onwards many rural Africans were forced into the 'white' towns as land and other pressures disrupted their traditional life-style. Many of these desperate and confused people, who found themselves in alien environments such as Durban, turned to European liquor and concoctions like *isishimiyana* to comfort their transition.

From at least 1883, Africans in Durban found that a variety of forces were combining to turn them into a 'nation of drunkards'. The influence of the European culture in general and the drinking of spirituous liquor in particular had torn large gaps in the traditional Zulu culture, as an increasing number of urbanised Africans submitted to the attraction of the white man's drink and fell foul of the law when drunkenness resulted. The days of traditional Zulu sobriety, a time when drunkenness was rare, being generally confined to special occasions only, were long over and had been replaced by a scenario in which Africans who moved to the 'white' towns were free to drink any quantity of whatever liquor they fancied, subject only to the restraining influence of the borough's bye-laws. The perception of the white colonists that Natal's indigenous African population was a race in which drunkenness was an inherent quality had become a stark reality. The blame for this new, acquired habit, drinking intoxicating liquors to excess, lay firmly at the door of the dominant white culture.

During the 1880s the question of control became an obsession among the colony's white authorities and residents. The growing size of Durban's African population (1880: 3 817; 1889: 6 034) exacerbated the fears which whites had held since their arrival in the region. And the overwhelming majority which Africans enjoyed in Natal (<sup>295</sup>) continued to provoke fears that this mass of people could easily become ungovernable if they were not subjected to a variety of strict controls. The colonial press and the reports of the Police and Resident Magistrates reminded colonists that African crime was on the increase and that there was an urgent necessity to control these 'savage barbarians' so that white supremacy in the region would remain unchallenged. The prevalence of African drunkenness was now a statistical and practical reality and it was widely believed that the majority of crimes had their origins in the drinking of alcohol. During the decade both Government and local authorities took action to extend their control over the African population. For example, the Borough of Durban passed a new bye-law in 1884 which enabled the police to arrest anyone under the influence of liquor. Previously, that person needed

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of whites and 7.8% of Indians were convicted. MM, Dbn, 1864, 1870.

<sup>295</sup>. By 1889 Natal's African population numbered 459 288 compared to the white population of 37 390 and the Indian population of 33 480. NBB, Vol. 1, 1889.

to be guilty of disorderly conduct or to be incapable of standing before he was arrested. During 1884 and again in 1886 the Legislative Council discussed the question of "kafir" beer-drinking at length, revealing all the fears which whites harboured about this traditional Zulu activity. There was also a lengthy debate in 1885 on the illicit trade in spirituous liquors and even the Missionary Conference of that year petitioned the Lieutenant-Governor, drawing his attention to the increase in drunkenness amongst the African population and the continual evasion of the law by canteen-keepers and unlicensed houses, as well as Indian hawkers. The rape scare of 1886-7 reminded the white colonists of the urgent necessity to consolidate and extend their control over the African population. Eventually, in 1888, the inevitable restrictive legislation - Law No. 18, "For regulating the sale of Kafir Beer, commonly known as *utywala*" was passed in order to control the 'drunken and criminal' propensities of the African population. Such legislation was justified both on the grounds of African drunkenness and in the interests of the Africans themselves. Control was achieved under the guise of moral reform and concern.

During the 1880s anti-Asiatic propaganda and legislation was initiated in the Colony of Natal. White authorities and colonists became increasingly concerned about the Indian population and for the first time attempted to pass restrictive liquor legislation against this section of the population. By 1889 there were 4 853 Indians in the Borough of Durban, an increase of 47% since the start of the decade. The Indian population of the colony had risen to 33 480, only slightly behind the white population of 37 390. During the decade 1875-85 the number of Moslem Indian traders had increased from one to forty. Their business success was a source of economic jealousy to the whites, who resented the competition presented by this class. The Wragg Commission of 1885-7 reported that the general white opinion in Natal was that Indians should remain in the colony as indentured labourers only; those who did not object to the presence of Indians demanded that the status of the free Indian be reduced to a lower level than that prevailing at the time. In the light of the fears which whites had begun to nurture about the presence of Indians in Natal, it is not surprising that they attempted to exercise greater control over this section of the population. In 1883, therefore, J.L. Hulett, a sugar farmer, had introduced an Indian Liquor Bill to control "the great increase in drunkenness and crime resulting from the free use of intoxicating liquor by the Indian inhabitants of this Colony, and the ready means by which the natives obtain liquor through the agency of the same." (<sup>296</sup>) Although this bill failed to pass into law, it is indicative of the concern with which the white colonists were viewing the Indian population. An effective control over Natal's Indian population needed to be established for two reasons. Firstly, drunkenness retarded the productivity of Indian labourers, thus damaging the

<sup>296</sup>. LC, 24 July 1883.

economic interests of white employers. The crime which allegedly resulted from such drunkenness threatened the persons and property of white residents. Secondly, Indian liquor-traffickers were allegedly primarily responsible for an even greater social 'evil' confronting the colony, that of African drunkenness. Thus the proposed liquor legislation was an attempt to control the perceived threat of Indians to both the economy and society of Natal.

Given the significant increase in African drunkenness during the previous decade (1880-1889) and the growing fears of whites about the possible results of African drunkenness and criminality generally, it is not surprising that the white authorities attempted to tighten the legislative stronghold over the colony's African population during the early 1890s. In April 1890 a new bill was brought before the House (No. 9, 1890) in order to prohibit the sale of intoxicating liquor to Africans.<sup>(297)</sup> The object of the bill was to increase the penalties for breaches of the Law No. 22, 1878, a law "to prohibit the sale and disposal of spirits and other intoxicating liquor to persons of the Native race." The Secretary for Native Affairs explained that it had been found that the penalties imposed under this law were not sufficiently deterrent to prevent the sale of liquor to Africans: "I think it is patent to everyone that liquor is sold almost openly all over the country, and especially in the towns. Every day one can pass canteens and see Natives either going in or coming out."<sup>(298)</sup> Under the Law of 1878 the penalty for the first offence was a fine not exceeding £10, or in default of payment, imprisonment with or without hard labour for any period not exceeding three months, and the magistrate could also suspend the offender's license. The new bill proposed that for the first offence there should be no option to the magistrate, but that a fine not exceeding £10, nor less than £5, be imposed with the alternative of imprisonment for any term not exceeding six months, nor less than three months, with hard labour. If the offender was the holder of a liquor license, then in addition to the above sentence, the magistrate would be empowered, at his discretion, to suspend the license for three months. For a second offence, the Law of 1878 provided for a fine not exceeding £15, or in default of payment, imprisonment with or without hard labour for any period not exceeding six months, and the magistrate had to suspend the license. The new bill proposed a fine not exceeding £25, nor less than £10, or in default of payment to imprisonment for any term not exceeding six months, nor less than three months, with hard labour. If the offender was a liquor dealer, then in addition to the above sentence, the magistrate would be bound to cancel the license. A portion of the fine, not exceeding one-half

<sup>297</sup>. For details of the debate see LC, 15 April, 22 April, 24 April, 30 April 1890.

<sup>298</sup>. LC, 15 April 1890.

thereof, could be awarded to the informer. Liquor could only be supplied to Africans for medicinal purposes. The bill also provided that any sentence or conviction would be endorsed upon the license of the offender.

It was hoped that these severe punishments would put a stop to the sale of liquor to Africans. The above approach to what was perceived as a growing social problem was the usual colonial response, a strategy which Natal's white authorities had followed relentlessly since the start of the colonial period. Harsher penalties and stricter law enforcement was undoubtedly their favourite control mechanism. Law No. 10, 1890 - "To amend Law No. 22, 1878, entitled [sic] 'Law to prohibit the sale and disposal of spirits and other intoxicating liquor to persons of the Native Race'" was subsequently passed. <sup>(299)</sup>

The new law would be read and construed together with Law No. 22, 1878, as one law. It was very similar to Law No. 22, 1878, the essential difference being that it attempted to dissuade transgressors by imposing stricter penalties for contravention. The intention was to extinguish African drunkenness and the resulting crime by means of legislation which would have a strong deterrent effect on those who were intending to sell liquor to Africans. Such legislation, it was hoped, would bring Natal's African population under a firmer control and preserve the sanctity of white civic life. The editor of the Natal Witness accurately expressed the sentiments of most whites in Natal that Africans and liquor were not compatible, and that African access to alcohol would only lead to the destruction of white colonial society:

It must be evident that Natal cannot afford to place the black in a position of equal freedom with the white in regard to drink. If we did so place him our police would have to be enormously increased, and even then the danger to life and property would be vastly greater than at present. The native, infuriated by drink, becomes a vicious brute. Of strong animal propensities even when sober, he appears to be almost quite at the mercy of bestial promptings when under the influence of drink. The 'social pest' evil would soon surpass all efforts to legally suppress it, and so render 'lynch law' with its barbarising influence unavoidable. <sup>(300)</sup>

In the same year the colony's white authorities attempted to tighten their control over the Indian population. This section of the population was not only growing in numbers, but was challenging the economic supremacy of the white man in the region, competition which was resented by white traders. Whites were generally disgusted by what they saw as the Indians' lack of morality and poor standards of

<sup>299</sup>. NGG, 4 March 1890.

<sup>300</sup>. NW, 19 Jan. 1892.

sanitation. Increasing Indian drunkenness and theft suggested that the actions of these people needed to be more strictly regulated. In addition, there was a widespread feeling that African drunkenness and crime could never be effectively addressed while Indians, who enjoyed free access to alcoholic drink, continued to supply the African population with their liquor requirements. Since 1883 when a bill designed to restrict Indian access to liquor had failed to pass, this social problem appeared to have grown worse.

In accordance with the above sentiments, Mr. Hulett, a plantation owner, introduced a Sale of Liquor to Indians Regulation Bill (No. 24, 1890), stating that the object of the bill was two-fold: "the protection of the Native races of this country" and "the rendering of the Indian labour supply of this Colony more efficient than it may be at the present time." <sup>(301)</sup> According to Hulett, it was general knowledge that the free trade in liquor amongst the native or aboriginal races of all countries "leads to crime, disorder, and, in many instances, the depopulation of the countries which they originally inhabited." In a colony such as Natal, where "property in outlying districts is at the mercy of a large uncivilised community", Hulett firmly believed that it was "absolutely needful and necessary that that property should be preserved in every possible way." The supply of liquor to the African population tended "to destroy the efficiency of the labour market [and] to create insubordination amongst the people, and dissatisfaction with the ruling power."

Hulett drew the attention of the House to the fact that the supplying of liquor to the indigenous people of Africa generally was receiving a large amount of attention at the hands of the Home Government. An attempt was being made to prohibit the introduction of liquor to countries that came under the influence of exploration companies. Hulett quoted from an article by Joseph Thomson in the Contemporary Review (March 1890) on "the results of European intercourse with the African". Referring to the demoralising influence the liquor trade was having on the natives of Africa, Thomson claimed that with the abolition of the slave-trade, the gin-traffic only received a more powerful stimulus - "to its propagation all the energies of the traders were devoted." He considered that "the diabolical work commenced by the slave-trade [had] been effectually carried on and widened by that in spirits." The spirit traffic tended to have an even more "brutalising" effect; "it more effectually blights all the native's energies, it ruins his constitution, and, through the habits it gives rise to, his lands are left as desolate as after a slave raid." Gin, rum, gunpowder and guns were the most characteristic European imports into West Africa and as a result

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<sup>301</sup>. In 1883 Hulett had brought in a bill urging the Government to place Indians under the same liquor restrictions as Africans, but this had failed to pass. For details of the debate on the new bill see LC, 6 May, 8 May 1890.

Africans learnt to regard whites as the makers and sellers of spirits and guns. The government machinery of Britain's West African colonies was supported by profits generated by the liquor trade. These West African settlements were supposed to be "bright jewels in the crown of England", but had turned out to be "standing monuments to our disgrace". The elevation of the "unhappy people who inhabit them" had been blighted by the availability of alcohol amongst these people. <sup>(302)</sup> Such a state of affairs was considered to be a disgrace to the white man as it was perceived as lowering the esteem of whites in the eyes of the African population. This type of argument would have a significant impact on the thinking of white colonials in Natal who were forever concerned about presenting a good image and example to the 'inferior' and 'backward' culture of the African.

Hulett noted that anything that "brutalises" tended to increase crime and that even from an economical point of view, they ought to keep the crime rate as low as possible since crime necessitated increased police supervision and prison accommodation. <sup>(303)</sup> Keeping Africans in a state of sobriety and good order, on the other hand, would mean that they could be governed more easily and would be less trouble to future white governments.

Hulett thought that some pressure had to be brought to bear upon the Indians themselves. The Indian nation was by tradition a sober people; any habits of drinking that they had contracted had been taught to them by the white man, the so-called civilised power. He noted that in India itself, a great amount of attention was being paid to the supply of liquor to the natives of India. At a meeting of the Indian National Congress in Bombay (1889), some 2 200 delegates from all parts of India had complained that the ruling power was forcing the liquor trade upon the peoples of India in order to raise revenue. This was one of their chief complaints against the English Government. Hulett refuted the argument that if Indians in Natal were prohibited from obtaining liquor, the supply of labour from India would be adversely affected. On the contrary, he believed that prohibition would tend rather to increase the labour supply. In his opinion, the peoples of India had no wish for liquor. Only in the large cities and towns, where it had been forced upon them, had they become demoralised. The people from the country districts of India came to Natal as sober people.

The purpose of the bill under consideration was to prevent Africans obtaining liquor through the agency of Indians. At that time, Indians were free to purchase liquor at a public canteen or bar, and remove it from the premises. This had resulted in a

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<sup>302</sup> . LC, 6 May 1890.

<sup>303</sup> . Ibid.

substantial trade in liquor between Indians and Africans. Indians even entered the African locations to carry out their business. Hulett considered that, ideally, the Indian population should be brought under the same restriction with regard to liquor as the African population, but this was not what the current bill was proposing.

While this debate was still raging in the Legislative Council, the Mayor of Durban's Annual Minute showed that convictions for African drunkenness had actually decreased by 553 cases (or 74%) during the twelve month period ending 30 June 1890, being the greatest annual decrease for the period under review. <sup>(304)</sup> Alexander attributed this decrease to the Council abolishing "kafir" beer-houses, the strict watch kept by the police upon suppliers, and the heavy sentences passed by the magistrates upon those convicted of supplying Africans with liquor. He believed that there would be less drunkenness amongst Africans if the penalties were increased; they would at least have less to spend on drink. They should be punished just as heavily for drinking intoxicating liquors as for having it in their possession without a permit. The Durban Town Council, alarmed at the decrease in the fines for drunkenness during January 1890, amounting to £67, adopted Alexander's recommendation that the fines for drunkenness be increased. They also resolved to ask the Town Solicitor to frame a bye-law compelling Indians purchasing liquor to consume it on the premises. <sup>(305)</sup>

After a lengthy debate, the bill was read a third time and passed into law as Law No. 20, 1890 - "To regulate the sale and disposal of intoxicating liquors to Indians". <sup>(306)</sup> Section one of the law defined the term Indian as meaning all aboriginal natives of India and their descendants who had come to the Colony of Natal, or would come in the future. The law stated that no Indian could remove from any licensed premises any brandy, gin, rum, or any other spirituous liquors, or any wine, ale, beer, or porter, or any fermented liquors of an intoxicating nature, or any mixed liquor containing any intoxicating, spirituous or fermented liquors. It would be legal, however, for the holder of a tap or public-house license to provide Indians with the above-mentioned liquors provided it was consumed on the premises, and provided it was supplied, not in a bottle, but in a vessel which would be left on the premises after the liquor had been consumed. Any person who supplied an Indian with liquor in contravention of this law was liable to the penalties as prescribed by Law No. 10, 1890. Whenever an Indian requested to be supplied with liquor not for consumption on the premises, he was required to produce a written order. The licensed dealer was bound, before acting upon the order, to assure himself of the genuineness of

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<sup>304</sup> . MM, Dbn, 1890.

<sup>305</sup> . NW, 11 Feb. 1890.

<sup>306</sup> . NGG, 12 August 1890.

the order, and that it was signed by some resident, or by some white resident known to the dealer, and that it was dated on the date upon which it was presented. On supplying an Indian with liquor not to be consumed on the premises, it would be the duty of the licensed dealer to furnish the Indian with a pass, on which would be written the name of the white person in whose name the liquor had been supplied, the name of the Indian who was making the delivery, the description and quantity of the liquor supplied, the date upon which it was supplied and the name of the licensed dealer who was providing the liquor. Any dealer contravening the provisions of the 5th. and 6th. sections of this law, was liable to incur the same penalties as provided by Law No. 10, 1890. An Indian who contravened any of the provisions of this law was liable to be arrested and on conviction to pay a fine not exceeding 20s., or in default of payment, to be imprisoned for any period not exceeding one month. This law, together with Law No. 22, 1878 and Law No. 10, 1890, would be read and construed together as one law.

The Natal Mercury criticised the new law for being essentially a modification of Law No. 22 of 1878. It believed, therefore, that it had an inherent weakness and was doomed to failure. While it might diminish the evil, it would certainly not eradicate it: "As long as a coolie is allowed to enter a canteen unchallenged, so long will there be a facility, more or less favourable, for the evasion of the law." <sup>(307)</sup> Africans who were used to acquiring liquor in Johannesburg without any difficulty, and who returned to Durban, would seek "by hook or by crook" to obtain it here. Under these circumstances, the Mercury was in favour of prohibiting the sale of liquor to the Indian population, since "the Indian agent will be a more effective instrument of evil than ever if the range of his operations be not curtailed, and his capacity for mischief reduced." <sup>(308)</sup> Although the new law sought to prevent the Indian from getting drunk at home and from having the power to intoxicate the Africans, it left him as free as ever to obtain refreshment for himself at any public bar. For the editor of the Natal Mercury, this was a serious problem.

The Superintendent of Police for Durban also condemned the new Indian Liquor Law. In presenting his monthly report to the Town Council, he stated that there had been a large increase in the contraventions for drunkenness, which now totalled 195. Four whites had been charged for supplying Africans with liquor, while eight Indians had been arrested under the new law for having liquor in their possession. Superintendent Alexander concluded his report with the following remarks: "The only feature in this report deserving notice is the increase of drunkenness amongst Indians since the passing of the Indian Liquor law, in July last. From that date

<sup>307</sup> . NM, 3 April 1890.

<sup>308</sup> . Ibid.

drunkenness and breaches of the peace amongst Indians have doubled in number, and the natives are not improved by the law." <sup>(309)</sup> He produced the following police returns for Durban showing the number of Africans arrested for drunkenness, and for having liquor in their possession:- <sup>(310)</sup>

Africans arrested for Drunkenness and having Liquor in their Possession in the  
Borough of Durban (April - September 1890)

	<u>Drunkenness</u>	<u>Liquor in Possession</u>	
April	60	10	
May	68	23	
June	66	14	
July	65	14	
August	66	10	
September	67	17	

Alexander condemned the law as being "most unjust and unnecessary", arguing that the "Native Liquor Law", if properly enforced, was quite sufficient for the prevention of supplying Africans with liquor. <sup>(311)</sup> But because those in authority outside Durban could, or would not, enforce this law, the 6 000 Indians and the licensed dealers in Durban had to suffer. He said that it was true that out of the 86 persons convicted in Durban during 1889 for supplying Africans with liquor, 62 were Indians, but they had paid a heavy penalty for their offence and honest Indians had not suffered for it. Under the new law, however, the law-abiding Indian was required to pour all the liquor he desired down his throat at one time, and the Durban dealer, who paid a large sum in licenses for the privilege of supplying him, had to transfer the privilege to those outside the borough, or to others, for if the Indian could not obtain liquor at one place (in order to take home with him), he would merely acquire it elsewhere. <sup>(312)</sup>

In his police report tabled before the Durban Corporation on 4 December 1890, Alexander reiterated his conviction that drunkenness amongst Indians had greatly increased since the passing of Law No. 20 of 1890. He reported that the number of convictions for drunkenness amongst Africans and Indians during the previous four months had been as follows:-

Africans, 273 cases, i.e. 14 above previous four months.  
Indians, 459 cases, i.e. 196 above previous four months.

<sup>309</sup>. NM, 9 Oct. 1890.

<sup>310</sup>. Ibid.

<sup>311</sup>. Ibid.

<sup>312</sup>. Ibid.

In addition, a large number of "European idlers" had lately been convicted of supplying liquor to Africans. <sup>(313)</sup>

Numerous temperance organizations were still hard at work during the early 1890s. The Sons of Temperance Friendly Society was established in Maritzburg in 1890, while the Burger Street Band of Hope appeared in the same year. The Ark of Safety Tent, a division of the Independent Order of Rechabites, celebrated its fifteenth anniversary in 1890, making it one of the colony's most durable organizations. <sup>(314)</sup> In 1891 unity was achieved between the various temperance organizations in the colony when at a meeting of delegates from the numerous temperance lodges and societies held in the Aliwal Street Schoolroom, it was resolved to form the Natal Temperance League with Mr. W. Palmer as President. <sup>(315)</sup> One of the intentions of the League was to make suggestions to the Legislative Council as to how the liquor laws should be altered. This "Temperance Party" was already unofficially represented on the Council by Messrs. Hulett and King. <sup>(316)</sup> Temperance societies also existed outside the main centres, in places such as Estcourt, Ladysmith and Verulam. Even the military appeared to have concerns in this area; the Regimental Lodge of the 2nd. York and Lancaster Regiment - "The Dark Lodge" - was formed in 1892. <sup>(317)</sup>

These organizations could not have been encouraged by the enterprise being shown in the brewery industry. In 1890 the Albion Brewery Company in Maritzburg, which had already been in existence for some years, called for tenders for the erection of new, spacious buildings on the site of the existing plant, between Church and Longmarket Streets. Capital of £35 000 was reported to be involved. <sup>(318)</sup> In the following year the Natal Brewery Company opened at the top of Longmarket Street. <sup>(319)</sup> The temperance movement would have been further demoralised by reports in the press of individuals like Thomas Cox, who was perennially in court on the charge of drunkenness. Described by the Natal Witness as "incorrigible" <sup>(320)</sup> and "the inevitable Cox" <sup>(321)</sup>, he was reported to be an idle, suspicious and extremely disreputable-looking character. In 1888 he made his 31st. appearance in the Magistrate's Court in Maritzburg, Mr. Barter sentencing him to 30 days' hard labour

<sup>313</sup>. NM, 5 Dec. 1890.

<sup>314</sup>. NW, 27 August 1890.

<sup>315</sup>. NM, 16 Jan. 1891.

<sup>316</sup>. NW, 17 Jan. 1891.

<sup>317</sup>. NW, 21 June 1892.

<sup>318</sup>. NW, 12 August 1890.

<sup>319</sup>. NW, 20 July 1891.

<sup>320</sup>. NW, 16 April 1888.

<sup>321</sup>. NW, 20 Nov. 1891.

for soliciting money from people in the street to buy drink. <sup>(322)</sup> By 1891 Cox was still making regular trips to court, on this occasion pleading guilty to a charge of drunkenness and being fined £1 or 40 days' imprisonment. <sup>(323)</sup> At this stage, society was doing little to look after its Thomas Coxs, apart from the inevitable admonishment and punishment. Nor was it doing anything constructive to reform people like Charlotte and Lydia, two African women, who in 1893 were charged with the "usual crime" of drunkenness and being out after hours. Both women were well-known characters and had made periodic appearances at the Court over the past six years. Magistrate Barter sentenced them to pay a fine of 12s. or to be imprisoned for 25 days. <sup>(324)</sup> He also, perhaps inadvertently, sentenced them to a life of perpetual misery, squalor and drunkenness.

In 1891 the almost inevitable Select Committee (No. 13, 1891) was appointed to investigate, once again, the subject of the supply of liquor to Africans. <sup>(325)</sup> The members of the Committee were Henry Bale, Chairman, the Secretary for Native Affairs and Messrs. Bainbridge, Hulett, Johnstone, Payn and Tucker. <sup>(326)</sup> It was commissioned to consider and report on:-

- a) The efficiency of the laws in force in the colony for preventing the sale of intoxicating liquors to Africans.
- b) The steps, if any, to be taken to ensure the better enforcement of existing laws.
- c) The feasibility of still further affecting by legislation the habits of the Africans with regard to the consumption of intoxicating liquors.
- d) Whether or not drunkenness amongst Africans was increasing.

The Committee reported that most of the persons who replied to their questions had lived in Natal for a considerable number of years, the average period of residence being 22 and a half years. Sixty testified to an increase in drunkenness amongst the Africans, sixteen expressed no opinion, while nine were of the opinion that drunkenness had not increased, or not to an appreciable extent. The increase varied in different localities; in the towns, on the coast and in the neighbourhood of

<sup>322</sup>. NW, 16 April 1888.

<sup>323</sup>. NW, 20 Nov. 1891.

<sup>324</sup>. NW, 3 May 1893.

<sup>325</sup>. NGG, 11 August 1891.

<sup>326</sup>. Bale was an advocate, but the other men all had vested interests in the efficacy of the colony's African and Indian labourers. John Bainbridge, MLC, was a farmer in Ladysmith; J.L. Hulett, MLC, was a planter; George Johnstone was a planter at Verulam; J.W. Payn was the Member for Durban County and W.P. Tucker was a sugar planter (or H.R. Tucker, a planter from Isipingo).

sugar mills and canteens, the increase had been "very considerable".<sup>(327)</sup> There did not appear, however, to have been much of an increase in Pietermaritzburg in the last few years. The Committee attributed the increase in the drinking habits of Africans in the coastal districts to the cheapness and ease with which rum was procurable, to the manufacture of *isishimiyana* from treacle, which in some districts had been very considerable, and to the supply of liquor by Indians, though since the passing of the Law of 1890 this had been diminished to a very great extent. Amongst the causes of the general increase in African drunkenness, the Committee noted the following:-

- 1) The acquisition of the habit at the Diamond and Gold Fields.
- 2) Increased prosperity through higher wages.
- 3) The increase of the cultivated area of land through the use of ploughs, which enabled Africans to grow larger crops.
- 4) The ease with which spirits could be purchased at canteens with very few exceptions throughout the colony.
- 5) The diminished influence of the chiefs and indunas, and the government of the tribes by the magistrates, who were not brought into such close contact as the chiefs and indunas.
- 6) The giving of liquor as a reward for services rendered and for special efforts.
- 7) Insufficient supervision of licensed houses, especially in the country districts.
- 8) The cheapness of spirits.
- 9) Contact with civilization.
- 10) Laxity in administration of the law.
- 11) Craving for excitement and the natural desire for alcohol.
- 12) A desire to have what is forbidden.
- 13) Bad example on the part of whites.
- 14) The influx of a lower class of whites.
- 15) The granting of licenses in places where the legitimate demand was small.
- 16) The cessation from labour on Saturdays and Sundays.
- 17) The increase in population.
- 18) The prevalence of *insangu* smoking.
- 19) The increased potency of "kafir" beer, owing to the adoption of a different process in its manufacture and its adulteration with European liquors.
- 20) The inadequacy of the punishment inflicted for breaches of the peace at beer-drinkings.
- 21) In the case of *isishimiyana* drinking, which was mainly a coastal phenomena, the procurement of treacle from the sugar mills and other sources.<sup>(328)</sup>

<sup>327</sup> . NGG, 11 August 1891.

<sup>328</sup> . Ibid.

The use of *utshwala* appeared to have "very considerably increased". This increase was attributed by some witnesses to the accumulation of wealth by Africans, whereby they were able to obtain the services of a larger number of wives, who in turn produced more "kafir" beer than before. In addition, the headmen of homesteads no longer exercised such strong control over their followers, particularly the young men and women. Whereas in the past the food of the young consisted, to a very considerable extent, of whey, mealies and sour milk, they allegedly now drank "kafir" beer instead. It was also said that the effect of the use of the plough, while increasing the cultivated area of land, had brought about careless husbandry; while the aggregate yield was very much larger, the yield per acre was less owing to the comparative neglect of hoeing and keeping down the weeds, thus tending to greater idleness. While a very large number of witnesses considered that drunkenness had increased generally throughout Natal, some attributed this increase to the use of European liquors, while others believed that drunkenness had increased more particularly in certain localities, due to the increased use of "kafir" beer. Most, however, agreed that the increase in the consumption of European liquors depended almost entirely upon the facilities afforded for acquiring them. They did not believe that Africans would travel long distances to get supplies.

The Committee reported that the increased use of stimulants by Africans had led to an increase in crime, particularly theft. The indulgence in excess of "kafir" beer was reputed to create a craving for food, leading to many of the thefts of stock. Faction fights were considered to be in nearly all cases the result of beer-drinkings.

The use of *isishimiyana* was reported to be indulged in "to a very large extent [and] in very many localities" by women as well as by men and was exercising a "most degrading influence". It was supposed to increase sexual desires and in some districts its use had resulted in "a very deplorable state of things". <sup>(329)</sup>

While the practice of giving liquor to Africans as an incentive to effort did not appear to be general throughout the colony, it was "very often" resorted to in some of the country districts, especially in sheep-shearing time and during wet weather. <sup>(330)</sup> Some of the witnesses admitted to having given liquor to Africans on such occasions. Transport-riders gave liquor to their African servants, while one Police Officer testified that liquor was sometimes given to Africans for immoral purposes.

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<sup>329</sup> . Ibid.

<sup>330</sup> . Ibid.

The Committee had reason to believe that the practice of the adulteration of drink was "not infrequent". Substances such as water, pepper, chilies, malt and methylated spirits were alleged to be used for the purposes of adulteration. This had given rise to drinks such as "Forked Lightning", "Sudden Death", and "Missionary Mixture". <sup>(331)</sup>

A very large number of witnesses had testified that "kafir" beer, used in moderation, was both food and drink. Others, however, believed that its intoxicating effects had been increased by an adulteration in the method of its manufacture or through combining it with European liquors. The evil effects of "kafir" beer parties were "very generally admitted". One of the Government's most experienced officers, who had been born in Zululand, stated that the use of "kafir" beer "intensely stimulates the animal passions", while other witnesses noted its tendency "to increase the desire for sexual intercourse." Nearly all of the witnesses admitted the impossibility, even the inadvisability, of endeavouring to put a stop to its use, but the consensus of opinion was very strongly in favour of regulating its sale and disposal, its use, its manufacture in large quantities, and its use on other occasions than family gatherings. The Committee drew attention to the situation in the Orange Free State where no large beer gatherings could take place without a license from the Landdrost, for which a payment was made, and at which one or two constables were present to control the consumption of "kafir" beer, to prevent disorder, and to disperse the people an hour before sunset. The Magistracies Commission had recommended a similar system for Natal, an idea endorsed by the Select Committee on the liquor question. The Committee also noted that in the Borough of Durban licenses were no longer granted for the sale of "kafir" beer and the Superintendent of Police of the borough had reported that since such licenses had been refused, drunkenness amongst the Africans had dropped to one half of previous levels, whereas in Ladysmith and Maritzburg, where there were large numbers of licensed houses, drunkenness was "very rife". <sup>(332)</sup>

Generally the opinion of the witnesses was that it was desirable to limit the use of "kafir" beer to family gatherings and to its daily consumption as food, but that in the case of all large gatherings a license should be obtained and the police should be present. One of the magistrates, whose division was believed to be the most temperate in the colony, was of the opinion that the sale or barter of "kafir" beer should be restrained by severe penalties and that Law No. 18 of 1888 should be repealed. He stated that the sale or barter of *utshwala* was contrary to African custom and that the selling of it was looked upon with contempt, being an evil

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<sup>331</sup>. Ibid.

<sup>332</sup>. Ibid.

acquired by contact with European civilization. He also testified to its admixture with rum, sugar and *isishimiyana*. He recommended that the ringleaders and spectators of faction fights, which so frequently resulted from beer-drinkings, should be punished by longer imprisonment and flogging. He alleged that it was a common saying amongst young African men that one should "remember the cost of a man's head is but an insignificant pound." <sup>(333)</sup> As a result, men went to these beer-drinkings with the express intention of fighting, knowing that the penalty would be relatively small. One or two witnesses thought that it might be possible to limit the cultivation of *amabele* or to impose a tax on it.

The testimony of an African witness on the subject is particularly interesting. He admitted that the manufacture and use of "kafir" beer was increasing, but stated that in the past when it had been more under the control of the chiefs, they had not been allowed to drink liquor. Previously no woman and, except very rarely, no young man was permitted to drink at all, but now the chiefs could not prevent them from doing so. He added that "its use impoverishes the Native to an extent only known to those who have known the Natives under the Native Chiefs." <sup>(334)</sup> He considered that a law should be passed restricting the manufacture of "kafir" beer and that power should be given to the chiefs to secure the enforcement of the law, and that children and young people should be forbidden to use it altogether.

The Committee included in its report a statement prepared by the Superintendent of Police of Durban showing that since 1865 drunkenness amongst Africans in Durban had increased five-fold. In 1865, 26 years previously, four per cent of the borough's African population had been convicted for drunkenness, since which time the rate of conviction had increased steadily until in 1889 it had reached 21 per cent. In 1890, however, supposedly owing to the withdrawal of licenses for "kafir" beer, it had fallen to 11.75 per cent. The Superintendent reported that a large quantity of liquor was stolen from ships in the course of landing, as well as from liquor dealers. During a period of six weeks, "store kafirs" had allegedly removed 140 bottles of liquor from one wholesale dealer. <sup>(335)</sup>

A large number of persons complained about the imperfect supervision of licensed houses. The Committee considered the Police Force in the country districts and the smaller towns in particular, to be "wholly inadequate" and "generally speaking, inefficient." For the purpose of detecting breaches of the Liquor Laws, the Natal

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<sup>333</sup> . Ibid.

<sup>334</sup> . Ibid.

<sup>335</sup> . Ibid.

Mounted Police was "almost entirely useless".<sup>(336)</sup> The difficulties of detection were increased by the fact that in many cases the African police themselves were alleged to indulge in European liquors. Very few of the witnesses had any suggestions to make except the necessity for increasing the police. Amongst the suggestions were that constables should be specially appointed to look after licensed houses, the appointment of detectives in plain clothes, and the appointment of "Native Detectives", who were strangers to the district and who would be changed frequently.

In consequence of the disinclination of persons to inform, it was generally agreed that it was very difficult to obtain convictions for contravention. The Secretary for Native Affairs in a Minute dated 11 July 1889 complained that the magistrates insisted on direct evidence of something having passed from the person of the seller to the purchaser and the production of the liquor or a portion of it as proof of the offence.

The Committee published a return showing the number of licenses to sell intoxicating liquors granted in each Magisterial Division of the colony for the ten year period ending 31 December 1890.<sup>(337)</sup> The report showed that there were 153 licensed houses at that time, exclusive of the Boroughs of Durban and Maritzburg. Only nine applications for licenses had been refused during that year. The number of licenses to sell intoxicating liquor within the Borough of Pietermaritzburg was 34 European and 9 African. The population of the borough, taken on 6 April 1891, was 17 283, consisting of 9 986 whites, 2 331 Indians (not indentured) and 4 969 Africans. Including indentured Indians, the population was approximately 17 500. Within the Borough of Durban, there were 30 European houses licensed to sell liquor. The population of the borough totalled 25 506, consisting of 12 637 whites, 6 480 Indians and 6 389 Africans. Taking the white population of Natal to be 46 800, and the number of licenses to sell European liquors at 220, the result was that there was one license to every 212.72 of the white population. The Committee believed that in certain parts of the colony, notably between Maritzburg and Durban, on the main road, and between Newcastle and Charlestown, in Maritzburg, and probably in Durban, Newcastle and Ladysmith, the number of licensed houses was excessive.

The Committee recognised that the existing laws prohibiting the sale and disposal of liquor to Africans had been and were being "flagrantly violated", but also saw the laws as having had a positive effect: "there can be no doubt that the Laws have had the effect of restraining intemperance amongst the Natives, and have beneficially

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<sup>336</sup> . Ibid.

<sup>337</sup> . Ibid.

affected them, and that by a partial enforcement of them great advantages have accrued to the Native population generally, as well as to the Europeans amongst whom they live." <sup>(338)</sup>

At the conclusion to its report, the Select Committee made a number of recommendations in an attempt to rectify the colony's liquor problem. This problem was perceived as revolving around the supply of drink to members of the African population:-

- 1) Section 4 of Law No. 23 of 1878 should be amended so that Licensing Boards had the power to refuse to grant or to renew licenses for "any good and sufficient reason" in addition to those mentioned in this section. The Boards should be empowered to take into consideration any petitions or other representations which might be made in favour of or against such granting or renewal.
- 2) The attention of Licensing Boards should be "very specially" called to the necessity of exercising great care in the granting and renewal of licenses, and of insisting upon the observance of the requirements contained in Section 4 of Law No. 23 of 1878. In all cases of applications for new, or renewals of existing licenses, regard should be had to the probable effect of the granting of such licenses upon the Africans residing in the neighbourhood of the premises licensed, or proposed to be licensed.
- 3) Under no circumstances should a license be granted in a location, nor in its neighbourhood, unless in the latter case an accommodation house was considered absolutely necessary for the convenience of travellers.
- 4) Law No. 18 of 1888, regulating the sale of "kafir" beer (*utshwala*), should be repealed and a new law passed rendering the purchase and sale of *utshwala* illegal.
- 5) "Kafir" beer-drinkings should be regulated as near as possible in the same manner as in the Orange Free State, so that no large gatherings be permitted except after a license had been obtained from the Resident Magistrate or the Administrator of the District, and not unless one or more constables were present to maintain order and to disperse the Africans at an early hour.
- 6) The penalties provided by the circular letter from the Secretary for Native Affairs to the Resident Magistrates, dated 14 December 1868, should be applicable to all Africans who made, sold, bartered, or otherwise acquired, or supplied, or were found in possession of *isishimiyana*. *Isishimiyana* which was found in the possession of any African should be seized and destroyed.

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<sup>338</sup>. Ibid.

- 7) The Police Force, both white and African, should be greatly increased, care being taken in the case of African constables to select them from other districts of the colony than the one in which they were called upon to perform their duties, and to change them as frequently as possible.
- 8) Inspectors of public-houses should be appointed who would, with the white members of the police force, be authorised to enter and inspect all licensed premises to ascertain whether the holder of any license was guilty of breaching the liquor laws.
- 9) In the case of Africans convicted more than three times in any period of twelve months, the magistrate should have the power to imprison without the option of a fine. <sup>(339)</sup>

In his annual report for 1891, Superintendent Alexander reported the absence of any serious crime in the Borough of Durban. Although the total number of cases had increased by 21%, this increase was confined to the coloured races for contraventions of the bye-laws. He considered that they had "little or no moral power in them to control their actions, and [were] only kept in order by fear." He attributed the increase in coloured crime to the lenient sentences they received; the punishment was not viewed with any fear. As drink was perceived as the cause of most of the offences, Alexander did not think that a caution or a fine of a few shillings was a punishment likely to diminish the offence of drunkenness. Rather, it was more likely to increase it, especially in cases where the offender had or was verging upon *delirium tremens* and should not therefore be set free. <sup>(340)</sup>

Amongst the cases of drunkenness for 1891, there were over 50 habitual drunkards who had been convicted during the year from 6 to 20 times and who had rarely received a greater punishment than a fine of 10s., or, in default of payment, imprisonment of 12 days. In some places in Natal, however, the court, in dealing with drunkards (as laid down in Law No. 23 of 1878) had increased the sentence to a fine of £5, or imprisonment with or without spare diet, or without the option of a fine, for terms of from one to 12 weeks. In Alexander's estimation, this had had a very salutary effect; the drunkard was made to suffer for his own folly, and not the community, with the result that such courts and their police were no longer troubled with many drunkards. Alexander recommended that the bye-law for the Borough of Durban be framed upon the same principle.

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<sup>339</sup>. Ibid. In August 1891 the Legislative Council met to consider the Report of the Select Committee on the Supply of Liquor to Natives. New legislation was passed during the following year.

<sup>340</sup>. MM, Dbn, 1891.

Drunkenness amongst Indians had increased by 76% since the introduction in the previous year of a law compelling them to satisfy their thirst at a public house. Indians were particularly fond of new Natal rum, which was also the cheapest liquor sold. According to Alexander, this liquor was often sold for drinking purposes before the fusel oil and other poisonous matter had been allowed time to evaporate. The resulting drunkenness was thus inevitable.

Although Alexander believed that drunkenness amongst the Africans had remained as it was previous to the Liquor Law of 1890, the criminal statistics suggest otherwise. In 1889 1 299 Africans were convicted for drunkenness in the Borough of Durban; in 1890 only 746 (a decrease of 57%), while in 1891 788 Africans were found guilty. It appears, therefore, that the law restricting Indian access to alcohol did place some check on the incidence of African drunkenness. The method designed by Natal's white legislators to control African drunkenness (and the concomitant behaviour) through the regulation of Indian access to alcohol appeared to be working. In Alexander's opinion, however, whites were now doing what the law prevented Indians from doing, i.e. supplying the Africans with drink.

The question of "kafir" beer houses was still a contentious issue among the settler population. In 1892 the people of Maritzburg drew up a memorial against these houses, claiming that they were "an intolerable nuisance, and a cloak for the sale of ardent spirits to natives, causing the scum of the black population to congregate in the neighbourhood, and give rise to disturbances." <sup>(341)</sup> Those residing in the neighbourhood of Greyling Street and Commercial Road, and in Boom Street, were particularly aggrieved at the situation. As a result of this petition, the Licensing Board resolved to suspend the issuing of licenses with a view to finding more suitable premises for these houses.

As a result of the recommendations of the Select Committee of 1891 on the Supply of Liquor to Natives, a new law was passed in 1892 (Law No. 17, 1892 - "To amend the Law regulating the granting of Licenses to sell Intoxicating Liquors") in order to tighten control over the granting of liquor licenses. The purpose of the law was to amend certain provisions of Ordinance No. 9, 1847, and of Law No. 23, 1878, in order that the voters of a particular district might control the granting of licenses for the sale of intoxicating liquors, including *utshwala* or "kafir" beer. The law stated that it would not be lawful for a licensing authority (any Licensing Board, Municipal Corporation, Local Board or other body having jurisdiction in respect of the granting of licenses) to grant a new license if, at least seven days before the meeting of the licensing authority, a memorial was lodged by a majority of the voters residing or

<sup>341</sup>. NM, 4 July 1892.

carrying on business in the area where the premises proposed to be licensed were situated, objecting to the issue of the license. The licensing authority was not permitted to grant a new license if a memorial objecting to the issue of the license had been received within the past two years. The law emphasised the fact that the licensing authority should not feel obliged to grant a license if no memorial objecting to the granting of the license had been received. The licensing authority was entitled to take into consideration "any objection which may be urged on the ground of the probable effect that the granting of such license may have upon the natives residing in the neighbourhood of the house proposed to be licensed" and any other objections against the granting of any new license. No person who was a distiller or was in any way interested by way of trade in the manufacture, purchase or sale of spirituous or fermented liquors, was permitted to act as a member of any licensing authority. Each licensing authority had the power to make, vary and amend rules and regulations for the better carrying out of the objects of the law, provided that they received the assent of the Governor in Council. The new law would be cited as "The Local Option Law, 1892".<sup>(342)</sup>

While new laws could attempt to address the problem of controlling licensed outlets for the sale of African beer, a considerable illicit trade was still being carried on underground. The Borough Police of both Durban and Pietermaritzburg were forever hard at work in their efforts to destroy the illegal sector of the market. The following case might be regarded as typical of the colonial period. Upwards of 50 Africans were discovered in a building drinking and some of them were too drunk to drink at all. Three large 36-gallon (162 litre) barrels were found in one room, containing quantities of beer. Five large paraffin cases were also full and half a sack of *mabele* was brewing outside. Among those inside were four or five Umlazi constables, the well-known diminutive court messenger standing outside as a sentinel. When he gave warning, the inmates rushed out, knocking over the calabashes and disappeared as fast as possible.<sup>(343)</sup>

In 1892 Alexander again drew attention to the presence of habitual drunkards in Durban and reiterated his complaint that the existing penalties for drunkenness in the borough were too lenient and unlikely to have a deterrent effect. He recommended that the Law of the colony, No. 23 of 1878, clause 8, be made applicable to the borough, empowering the court to hand down penalties to the extent of a £5 fine or three months' hard labour. Alexander reported that "vagabonds of all classes" earned a living dishonestly by writing requisitions for Africans and Indians to obtain liquor. He recommended that a clause be inserted in

<sup>342</sup>. NGG, 11 Oct. 1892.

<sup>343</sup>. NW, 5 Oct. 1892.

Law 22 of 1878 making this offence punishable under this law and not for perjury as was presently the case. He also recommended that a clause be inserted permitting police officers to arrest summarily and to prosecute persons supplying liquor to Africans, and that the punishment in clause 10 be amended to hard labour, since he considered that it was no punishment to Africans and Indians to be sent to gaol without it. His final recommendation on the liquor question was that laws should be framed to prevent women drinking at public bars: "I know of nothing more degrading or ruinous to society. If we cannot keep our own women sober, we cannot expect to keep others so, or be a fit example to the uncivilised races amongst us." The figures for 1892 show that 237 women were arrested for drunkenness in the public streets and roads, consisting of 21 whites, 91 Indians and 125 Africans. This was an "increase out of all proportion to previous records, and [might], if not stopped in time, reach the disgraceful state of female drunkenness witnessed in other parts." <sup>(344)</sup> Victorian men were always highly concerned about the morality of their womenfolk, far more so than the condition of their own moral fibre. In 1892 only 21 out of 3 490 white women in Durban were convicted for drunkenness. This represents a mere 0.6% of the borough's white female population, but was a sufficiently high figure to cause Alexander to recommend that women be barred from drinking at public houses. The fact that 804 white men or 19% of the borough's white male population were convicted for drunkenness in the same year was not considered worthy of any consternation.

By 1892 certain enterprising and educated Africans were in the habit of writing fictitious liquor passes for their fellow Africans with the sole intention of extracting profit from their thirsty brethren. In one such case, an African was charged by the Borough Police under Law No. 22 of 1878 for having supplied three Africans at different times with rum or other spirituous liquors by means of written orders or passes to obtain the said liquor. It was duly proven that the African wrote the passes, that he received 6d. from each African, and that he was in the habit of doing this in the neighbourhood of Sydenham and Umhlatuzan, as well as in the Borough of Durban. The magistrate, Mr. Dillon, considered the offence a "very grave" one and sentenced the man to the fullest penalty he was empowered to inflict, a fine of £10 or three months' hard labour. <sup>(345)</sup> The Natal Mercury believed that this judgement opened up an entirely new line of prosecution and could, if rigidly enforced, be a means of preventing a great deal of drunkenness among the town Africans. It claimed that for many years a large number of Africans had been making a living by these means, thus deceiving the licensed dealers. The law compelled the dealer to assure himself of the genuineness of the order produced by the African for

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<sup>344</sup>. MM, Dbn, 1892.

<sup>345</sup>. NM, 29 Sept. 1892.

liquor. But even if a dealer knew his customers well, and their servants, few could swear to either their writing or signatures, or that of the members of their household. Summonses were apparently also out against white people for the same offence.

By 1893 Alexander felt moved to describe liquor as "a fearful agent for evil" amongst the African population: "man or woman falls hopelessly under it's influence." He thought that drunkenness amongst Africans could not be too severely dealt with and for the third successive year suggested that the more severe penalties of the Colonial Law for drunkenness should be applied to the borough bye-laws. He considered that the "Native" Liquor Law should also be amended, since "the present number of formalities and omissions in it make it almost useless, and prosecutions a farce." These liquor laws and the Vagrant Law had to be more sternly enforced by all in order to check the "downward course" that Africans were following. <sup>(346)</sup>

Alexander was particularly worried about the presence of about 360 African women (including Hottentots) in Durban. He alleged that during the past year half of these women had been found drunk in the streets, having been supplied with liquor by white men. The Borough Police had done "their utmost" to keep liquor from the Africans with the result that during the past year more offenders were alleged to have been convicted under the African liquor laws than in the whole of the rest of Natal. In Alexander's opinion, the districts surrounding the borough, particularly those adjoining the Berea, were "little better than rendezvous for thieves, drunkards and prostitutes, and a source of the greatest danger to this Borough." This situation would only be rectified when the Government placed a white constable in charge of the district. <sup>(347)</sup>

In an article entitled, "Drunk Kafirs More in Demand", a correspondent writing under the pseudonym "Vice-Consul" claimed that the most depressing part of the "native question" was that an African who was a heavy drinker was more in demand than an abstemious one and consequently a premium was maintained on insobriety. <sup>(348)</sup> He explained the reasoning behind his allegation as follows. All Africans, on being employed for any definite object, had to be instructed in their work. If an African was temperate in his habits he would, within one or two months, earn sufficient to maintain himself for many months, with the result that he would soon return to his home and the instruction given him in the first instance would be lost. With an intemperate African, however, the result was otherwise. Month after month, on the receipt of his wages, he spent them on alcohol and thus never had sufficient funds to

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<sup>346</sup> . MM, Dbn, 1893.

<sup>347</sup> . Ibid.

<sup>348</sup> . NM, 23 June 1893.

go home. He, therefore, remained with his employer for years on end, becoming more and more valuable as time elapsed and the repetition of instruction became unnecessary. "Vice-Consul" was inadvertently recognising one of the cornerstones of the foundation of Natal colonial society, viz. the fact that it was dependent on African labour for its survival and that the African desire for the white man's liquor would ensure his involvement in the cash economy. Although the white colonists had attempted to legislate against African access to alcohol, this was not always successful, and many Africans came to work for cash for the express purpose of being able to purchase highly desirable 'foreign' goods such as European clothes and liquor. Others, of course, were forced into the cash economy from the mid-1880s onwards by the underdevelopment of the African agricultural sector and natural disasters which deprived them of their independence and brought an end to decades of successful subsistence and peasant farming.

A white colonist residing in Maritzburg at this time enjoyed access to numerous liquor outlets. The Maritzburg Licensing Board approved the following license renewals in July 1893:-

Hotel and Canteen (6)

F.C. Kent - Plough Hotel  
 E. Shepherd - Red Lion Hotel  
 R. Lambert - Victoria Hotel  
 W.H. Ash - Central Hotel  
 H. McCormick - Standard Hotel  
 E.H. McAdam - Cremorne Hotel

Canteen (17)

J. Hodgkins - Globe  
 B. Froomberg - Black Horse  
 J. Howard - Pavilion Bar  
 A. Salter - Royal Oak  
 S. Froomberg - Queen's Theatre of Varieties  
 H. Wise - Murphy's Canteen  
 W. Froomberg - Masonic Bar  
 C. Harmsworth - Town Hall Buffet  
 J. Phipps - Our Office  
 A.B. Ashton - Market Inn  
 W.A. Matthews - York Hotel

A.M. Peters - Willow Bridge  
 J.B. Morris - Theatre Royal  
 J. Geddes - First and Last  
 J.A. Peters - Crown Hotel  
 W. Jeffries - City Arms  
 Ann Maria Loagie - Thistle Bar

Hotel Wine and Spirit (5)

Emma Thresh - Imperial Hotel  
 M.E. Doig - Langham Hotel  
 A.J. Fisher - Camden House  
 J. Holland - Kettlefontein Hotel  
 W. Beavon - Criterion

Wholesale Colonial Ale (1)

F. Mead - managing director, Natal Brewery

Seven applications were also made for African beer licenses and five were granted. One was refused by reason of unsuitable premises and the other because the applicant was deemed to be an undesirable person. <sup>(349)</sup> Similarly, the Borough of Durban was also well endowed with places where a man (and a woman) might slake their alcoholic thirsts. By 1893 the number of distilleries in Natal had decreased, but there were still seven rum distilleries in the Inanda Division of Victoria County, a distillery in the County of Alexandra and a brewery in the Borough Division of the County of Pietermaritzburg. 139 027 gallons (625 622 litres) of rum was exported during that year, suggesting that there was more than enough rum in the colony to satisfy both the domestic and the export market. In addition a substantial import trade in wines, beer and spirits meant that a great deal of liquor was available in Natal. In 1893 liquor imports amounted to 241 353 gallons (1 086 089 litres) of ale, beer and cider, 153 301 gallons (689 855 litres) of spirits and 45 523 gallons (204 854 litres) of wine. A further 1 801 gallons (8 105 litres) of spirits and 2 056 gallons (9 252 litres) of wine was imported for the specific use of the officers of Her Majesty's service. <sup>(350)</sup>

<sup>349</sup>. NW, 3 July 1893.

<sup>350</sup>. Liquor imports into the colony had actually decreased considerably to the levels of the 1870s.

With so many legal outlets for the sale of drink, and considering the numerous illicit premises and transactions, there was certainly every opportunity for both black and white to tread the path of occasional or perpetual drunkenness. In the case of the African, a disadvantaged socio-economic background usually lay at the root of his drunkenness. The numerous restrictions imposed on Africans are likely to have produced a low self-esteem, which could always be buried and forgotten at the bottom of a bottle. In addition, it is a natural human tendency to crave that which is prohibited. Lower class whites and those who were deemed to have "fallen from society" also tended to find comfort in alcohol. The drunkenness of the white middle and upper classes was generally invisible to the public eye and the colonial press, being carried on where most Victorian immorality existed, namely behind closed doors.

Despite the widespread drunkenness that existed in the Colony of Natal during the period under review, no attempts were made to address this problem by any other means than legislative action, law enforcement and judicial severity. For most, if not all, of the colonial period, drunkenness was treated as a crime, committed by criminals, who had to be punished for their sins. The fact that most public drunkenness was committed by members of the African population made this 'crime' even more objectionable to the white colonist, who believed that his security and culture were threatened by hordes of marauding, drunken "kafirs".

From 1892, however, there are signs that people in Natal were beginning to look upon drunkenness as a disease which needed treatment, rather than as merely a crime requiring punishment. This new thinking appeared to be prompted by a case which was brought before the Acting Resident Magistrate of Maritzburg, Mr. Dillon. In this case, a "shabby - genteel" man, by the name of Andrews, was charged with having been drunk. <sup>(351)</sup> He admitted the offence and that he had been before the court twelve times on similar charges. The magistrate, acknowledging that the man was incorrigible, sentenced Andrews to one month's imprisonment, but remarked that it was a very painful thing for him to do to have to punish such a man. The prisoner was apparently a good draughtsman and had the ability to earn a fair income. He would have preferred to have had the opportunity of sending persons like Andrews to some place of confinement where diseases of this sort could be treated, but unfortunately no such place existed in the colony.

The Natal Witness reported that Johannesburg had one canteen to every 63 inhabitants, while Pretoria boasted over 70 houses of call. Durban and Maritzburg were not far behind these towns. In addition, all the smaller towns had three or more

<sup>351</sup>. NW, 20 August 1892.

places of resort and there were hundreds of roadside houses all over the country. It appeared, however, that any reduction in the number of such places had little or no effect on the drink traffic and that the erection of coffee houses and temperance resorts had also failed to markedly lessen the 'evil' of drunkenness. The Natal Witness suggested that some medicine needed to be discovered which would destroy the craving for alcohol: "The disease should be subjected to a proper medical diagnosis, and treated like any other ailment which the human frame is subject to." <sup>(352)</sup>

In March 1893 Superintendent Alexander submitted a memorandum on the subject to the Durban Town Council calling on the Government to devise some means of dealing with habitual drunkards other than the "present useless system". <sup>(353)</sup> A correspondent to the Natal Witness suggested an alternative scheme to that of an inebriates' home, a scheme which was apparently a great success in New Zealand. If the friends of any person could show that he was spending his substance on drink, the magistrate could issue a prohibition order restraining all people from supplying drink to the person against whom the order was issued, under heavy penalties, and this order was published in all public papers. The writer claimed that in a number of cases people had applied to have the order issued against themselves. <sup>(354)</sup>

Speaking at the General Temperance Council in Durban, Mr. Bale remarked, with regard to the inebriates' home, that as yet he had not given any consideration to the coloured races. He admitted that the discussion had been confined to the care of white drunkards only. It was indeed a sad reality about the Colony of Natal that even when they came to address a problem affecting all the region's people, the interests of the white colonists would always be the primary consideration. Bale saw these retreats as affording opportunities for a man for reflection, a place where gentle and persuasive influences could be brought to bear upon him and where such people could be taught to rely upon a higher power than themselves. He did not favour the idea of incorporating the inebriate homes into the lunatic asylums. He claimed that in the new Legislative Assembly, out of a total of 30 people, eight to ten members were pledged to total abstinence, making them a formidable force in the colony's most important decision making body. Clearly, they hoped to use their influence to ensure the establishment of a home for inebriates based on the Christian faith, but whites would be the first to enjoy the benefits of such an institution.

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<sup>352</sup>. NW, 10 March 1892.

<sup>353</sup>. NW, 9 March 1893.

<sup>354</sup>. NW, 24 May 1893.

It is important to examine the economic condition of Natal during these years in order to determine to what extent economic prosperity or depression may have influenced the level of drunkenness. At the end of the 1880s the country experienced a gold crisis, which included an intense speculative collapse early in 1889, a severe banking and financial crisis in 1889-90 and an economic recession towards the middle of 1890. Between 1890 and 1892 the colony suffered a full-blown depression. Towards the end of 1892 the economy began to revive and prosperity returned once more from 1893-5. The table below reflects the number of convictions for drunkenness in the Borough of Durban during the period 1890-4, the total number of offences (all crimes) committed and the percentage which drunkenness constituted of the total offences:- <sup>(355)</sup>

Convictions for Drunkenness in the Borough of Durban (1890-4)

	<u>Whites</u>	<u>Indians</u>	<u>Africans</u>	<u>Total</u>	<u>Total Offences</u>	<u>Percentage Drunkenness</u>
1890	1 020	799	746	2 565	6 102	42.0
1891	910	1 404	788	3 102	7 661	40.5
1892	825	1 332	727	2 884	8 197	35.2
1893	574	1 491	706	2 771	8 111	34.2
1894	546	1 375	881	2 802	8 883	31.5
	(3 875)	(6 401)	(3 848)	(14 124)	(38 954)	(36.3)

There does appear to be some correlation between the economic condition of the colony and the incidence of drunkenness. During the period of depression (1890-2) both white drunkenness (by 19%) and African drunkenness (by 3%) decreased, but the level of Indian drunkenness increased significantly by 67%. The decline in the level of white and African drunkenness was probably influenced by their relatively poor financial resources during this period. Male and female drinkers might have decided to forgo the luxury of alcohol on occasions, being forced to spend their money on more important items. The Indian population, however, appeared to be unaffected by the economic plight of the colony and Indians continued to drink copiously of their favourite alcoholic beverages. This was either the heavy drinking of the depressed or it suggests that Indians simply refused to go without a commodity which they had come to regard as a necessity of life. White drunkenness continued to decrease as the economy began to prosper from the end of 1892 onwards, indicating that whites were generally not spending their increasing resources on liquor. Both Indian drunkenness (by 3%) and African drunkenness (by 21%) increased during this period, suggesting that these sections of Durban's

<sup>355</sup>. MM, Dbn, 1890-1894.

population were taking advantage of their relative prosperity to indulge in an activity which was both sociable and a source of comfort.

Total drunkenness increased by only 9% during the period 1890-4, an increase which is consistent with the increase in population. <sup>(356)</sup> The Indian population continued to be the principal offenders in this regard. During the 1890s Natal's white authorities had attempted to address the increasing problem of Indian drunkenness by passing legislation designed to control their access to liquor. Law No. 20 of 1890, "To regulate the sale and disposal of intoxicating liquors to Indians", attempted to "protect the Native races of this country" and "to render the Indian labour supply of this Colony more efficient than it may be at the present time." <sup>(357)</sup> The idea was to achieve the two-fold purpose of controlling both the productivity of Indian labour (by regulating Indian access to alcohol) and the African population generally (by removing the Indian middle-man who supplied them with so much of their liquor). This legislation, however, failed to exercise any remedial effect on the incidence of Indian drunkenness. On the contrary, the level of Indian drunkenness increased by 76% in the year following the passage of the law. Since they were forbidden to remove liquor from the premises of licensed houses, Indians tended to drink even more than their heart's desire while still in the canteen, before embarking on their drunken journey home, during which they were often arrested for public drunkenness. This law, therefore, failed to achieve its purpose of controlling the productive capacity of Indian labourers. It had also been hoped that the regulation of Indian drinking would have a salutary effect on the level of crime perpetrated by the Indian population, but the law failed to achieve any reduction in the Indian crime rate. Between 1890 and 1894, for example, the number of Indians convicted of theft in the Borough of Durban more than doubled. <sup>(358)</sup>

The Indian Liquor Law did, however, achieve some success for its authors in that it exercised a restraining influence on the level of African drunkenness. During the four years (1890-3) after the passage of this law, convictions for African drunkenness in the Borough of Durban actually decreased by 5%, suggesting that, with the Indian middle-man being neutralised to a large extent, Africans were finding it more difficult to procure liquor illicitly. During this same period Durban's African population declined by 1%, indicating a slight decrease in African drunkenness in

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<sup>356</sup>. The total population of the Borough of Durban increased from 23 724 in 1890 to 25 853 in 1891, an increase of 9%. Thus the importance of drunkenness as a social problem had not increased in real terms. MM, Dbn, 1890-1.

<sup>357</sup>. LC, 6 May 1890.

<sup>358</sup>. In 1890 97 Indians were convicted of theft in the Borough of Durban. By 1894 the number of convictions had increased to 204. MM, Dbn, 1890, 1894.

real terms. During 1894, however, African drunkenness increased significantly with the result that the period 1890-4 actually saw an 18% increase in the number of Africans convicted for drunkenness, while the African population for the corresponding period increased by only 7%. By 1894, therefore, any positive effect which the Indian Liquor Law may have had on the level of African drunkenness had disappeared.

The table below reflects the number of people convicted (under Law No. 18, 1863) in the Borough of Durban for supplying liquor to Africans during the period 1890-4. The number of convictions probably represents only a small proportion of the illicit liquor transactions which were actually conducted. It suggests that the Indian Liquor Law, by preventing Indians from removing liquor from licensed houses, had managed to reduce the prevalence of Indians supplying Africans with liquor. Both whites and enterprising Africans, however, continued to supply Africans with liquor and to an extent stepped into the gap left by the Indian middle-man:- <sup>(359)</sup>

Convictions for Supplying Africans with Liquor  
in the Borough of Durban (1890-4)

	<u>Whites</u>	<u>Indians</u>	<u>Africans</u>	<u>Total</u>
1890	14	62	10	86
1891	28	11	4	43
1892	22	5	9	36
1893	28	3	17	48
1894	14	6	15	35
	(106)	(87)	(55)	(248)

The following table, which reflects the number of Africans convicted in the Borough of Durban for having liquor in their possession during the period 1890-4, shows a significant increase in convictions by 1894. This is consistent with the number of convictions for drunkenness which also peaked during 1894:- <sup>(360)</sup>

Convictions of Africans found with Liquor in their Possession  
in the Borough of Durban (1890-4)

1890	220
1891	163
1892	155
1893	235
1894	400
	(1 173)

<sup>359</sup>. MM, Dbn, 1890-1894.

<sup>360</sup>. Ibid.

Drunkenness remained the most prolific offence committed in the Borough of Durban. In 1894, for example, there were 2 802 convictions for drunkenness, followed at a considerable distance by vagrancy (1 311), breach of the peace (647), theft (514), indecency (482), desertion (409) and Africans found with liquor in their possession (400). But the relative importance of drunkenness as compared with other crimes had decreased; in 1894 drunkenness constituted 31.5% of all crime in Durban, the lowest figure since 1883 (26.4%). The dizzy days of 1889 when drunkenness made up 49.9% of all cases had gradually disappeared with each succeeding year. Members of the Indian population remained the principal offenders, with 38.6% being convicted for drunkenness, whereas only 13.8% of whites and 13.7% of Africans were found guilty under this offence. <sup>(361)</sup> Liquor and the subsequent drunkenness were contributing both positively and negatively to the development of the colony. On the positive side, both the Government of Natal (through duties, excise revenue and the revenue derived from fines) and the producers, wholesalers and retailers of liquor (through the sale of this popular commodity) were drawing a considerable income from the liquor industry. Although it is impossible to estimate the profits gained from the illicit trade in liquor, this was also undoubtedly a thriving component in the colonial liquor trade. White, Indian and African bootleggers, fired by an entrepreneurial spirit which was stoked by the various restrictive liquor laws, conducted a business which was lucrative in the extreme. This illicit trade was almost impossible for the authorities to break up. Both sellers and buyers placed a premium on secrecy, while Africans, who to a large extent kept the illicit dealer in business, generally refused to inform against their suppliers. On the negative side, excessive drinking was undermining the morality of all the people in the region; a great deal of hard-earned money was undoubtedly wasted on liquor, while immorality, breaches of the peace, aggression and familial violence would have been some of the other concomitants of drinking to excess. Men and women who were imprisoned for drunkenness were also draining the financial resources of the state. Thus man's eternal dilemma of money versus morals remained to haunt a colonial society which had developed and nurtured most of the vices once unique to Victorian England.

In terms of the new Indian Liquor Law (No. 20, 1890), "To regulate the sale and disposal of intoxicating liquors to Indians", it became illegal to supply Indians with liquor outside the premises of a licensed house. Such legislation merely opened the way for an illicit trade in liquor with the Indian population. Since whites were the only ethnic group in the colony which still enjoyed unlimited access to liquor, numerous opportunities were opened up for white bootleggers to satisfy the liquor demands of

<sup>361</sup>. MM, Dbn, 1894.

Indians. Indians themselves and a handful of Africans were also involved in this activity. The authorities and the police experienced extreme difficulty in attempting to undermine this illicit trade. Both supplier and purchaser were careful to keep their transactions secret and unless they were caught red-handed, there was little chance of apprehending them. The table below, which reflects the number of whites, Indians and Africans convicted for supplying Indians with liquor in the Borough of Durban during the period 1891-4, reveals the difficulties involved in apprehending those who were involved in the illicit trade. As such, these figures represent only a fraction of the total illicit business being conducted between the suppliers of alcohol and their Indian customers:- <sup>(362)</sup>

Convictions for Supplying Indians with Liquor  
in the Borough of Durban (1891-4)

	<u>Whites</u>	<u>Indians</u>	<u>Africans</u>	<u>Total</u>
1891	5	4	2	11
1892	3	3	0	6
1893	1	7	0	8
1894	1	1	0	2
	(10)	(15)	(2)	(27)

The new Indian Liquor Law also made it illegal for Indians to remove liquor from licensed premises. They were required to satisfy their alcoholic thirst at the particular drinking establishment and then wind their weary way home without any liquor in their possession. Indians who were found with liquor in their possession were arrested and on conviction were liable to pay a fine not exceeding 20s., or in default of payment, to be imprisoned for any period not exceeding one month. The table below, which reflects the number of Indians convicted for having liquor in their possession in the Borough of Durban during the period 1891-4, reveals a steady and significant decrease in convictions during these years. This suggests that Indians were learning to satisfy their cravings for drink within the precincts of licensed houses and were resisting the temptation to take liquor home with them. It is possible, however, that they had merely learnt to be more careful when they had liquor in their possession and had therefore managed to avoid the clutches of the police. It is also quite likely that the zeal of the police in enforcing the law had declined with each year that the law had been on the statute books. The figures for Indian drunkenness suggest that Indians were satisfying their liquor wants quite liberally and had little need to risk being found in possession of alcohol:- <sup>(363)</sup>

<sup>362</sup>. MM, Dbn, 1891-1894.

<sup>363</sup>. Ibid.

Convictions of Indians for having Liquor in their Possession  
in the Borough of Durban (1891-4)

1891	77
1892	54
1893	29
1894	18

(178)

By 1893 Durban's African population had surpassed the white population in their contribution to drunkenness in the Borough of Durban. Since 1864, when white drunkenness had constituted 64% of the total drunkenness and Africans a mere 8%, the 'progress' of Durban's African people towards a reliance on strong alcoholic drink had been remarkable. By 1894 Africans were responsible for 31% of the drunkenness in Durban, a significantly greater proportion than white drunkenness which contributed 19% of the total. The Indians, however, remained enslaved to the attractions of liquor to a greater extent than the other ethnic groups, contributing half of the drunkenness in the borough. The table below reflects the percentage of drunkenness committed by each section of Durban's population during the period 1890-4:- <sup>(364)</sup>

Percentage of Total Drunkenness committed in the Borough of  
Durban by Whites, Indians and Africans (1890-4)

	<u>Whites</u>	<u>Indians</u>	<u>Africans</u>
1890	39.8	31.1	29.1
1891	29.3	45.3	25.4
1892	28.6	46.2	25.2
1893	20.7	53.8	25.5
1894	19.5	49.1	31.4

It is also instructive to consider the incidence of white, Indian and African drunkenness in relation to the size of the population of each racial category resident in the Borough of Durban. The table below illustrates the approximate proportion of whites, Indians and Africans convicted for drunkenness in the Borough of Durban for the period 1890-4:- <sup>(365)</sup>

<sup>364</sup>. MM, Dbn, 1890-1894.

<sup>365</sup>. Ibid.

Relationship between Population and Drunkenness  
in the Borough of Durban (1890-4)

	<u>Population</u>	<u>Convictions</u>	<u>Percentage Convicted</u>
1890	Whites : 11 530	1 020	8.8
	Africans: 6 402	746	11.7
	Indians : 5 792	799	13.8
1891	Whites : 12 637	910	7.2
	Africans: 6 389	788	12.3
	Indians : 6 486	1 404	21.6
1892	Whites : 13 293	825	6.2
	Africans: 7 059	727	10.3
	Indians : 7 140	1 332	18.7
1893	Whites : 12 772	574	4.5
	Africans: 6 318	706	11.2
	Indians : 5 917	1 491	25.2
1894	Whites : 13 093	546	4.2
	Africans: 6 862	881	12.8
	Indians : 5 898	1 375	23.3

The above table indicates that throughout the period 1890-4 a greater proportion of Durban's Indian population was convicted for drunkenness than the other races. And a greater proportion of Africans was given to alcoholic excesses than was the white population. The proportion of Indians convicted for drunkenness almost doubled during this period, suggesting that Indians were becoming increasingly reliant on European liquors and rum manufactured in Natal. Since their arrival in Natal from about 1860 onwards, the influence of the European culture, and vices like liquor in particular, had proven to be irresistible for many Indians, assisting in the dismantling of the traditional Indian culture. During the debate on the Indian Liquor Bill, it had become clear that the majority of Indians were not drinkers by tradition. Hulett testified that "The Indian nation was by tradition a sober people; any habits of drinking that they had contracted had been taught to them by the white man, the so-called civilised Power." <sup>(366)</sup> Aboobakker Amod stated that drink was prohibited by the Hindu and Moslem religions. Drunkenness was regarded as such an offence that the offender, if a high caste Hindu, was expelled from his caste. Even among the lower castes of the Hindus drunkenness was looked upon as a disgrace. The blame for Indian drunkenness in the Colony of Natal thus lies firmly at the door of the white Anglo-Saxon culture. From the very moment when Hindus and Moslems boarded ship in India and were forced to take their meals together, the rules of caste and culture began to be dismantled. Up until 1890 the colony's Indian population enjoyed free access to European liquors and Natal manufactured rum and beer, and

<sup>366</sup>. LC, 6 May 1890.

after 1890 their access to these drinks was limited only by the proviso that it had to be consumed on the premises of a licensed house. Natal's white authorities must therefore accept the responsibility for the high level of drunkenness which developed among the Indian population. Contact with the European culture, far from being an enlightening experience, had an essentially destructive impact on those Indians who came to Natal. White fears about the Indians - economic competition, insanitary habits, immorality, crime and drunkenness - prompted them to attempt to control these people through devices such as the Indian Liquor Law (No. 20, 1890), but their attempts were generally unsuccessful, allowing Indians to pursue vice on the one hand, and business success on the other, with at least a degree of freedom. But while Indians were perceived by whites as a threat to the colony, it is important to note that the level of that threat never approached the depth or intensity of the threat supposedly posed by the African population. By 1894 Durban's Indian population numbered 5 898, compared to the white population of 13 093. More importantly, the total Indian population of the colony numbered only 41 208, compared to the white population of 43 742, with the result that whites did not fear being swamped by the Indian section of the population. Because of this security in numbers, the threat posed by the Indian population never appeared to be life-threatening and the stability of the colony was not at risk. For this reason the mechanisms of control against the Indians were never as substantial as those heaped against the African population.

Natal's white dominated society must also bear the responsibility for the development of the vice of drunkenness among the indigenous African population. Before the white man arrived in the region, drunkenness among the Nguni-speaking people of south-eastern Africa was a relatively rare phenomenon, being confined to specific occasions (such as lengthy beer-drinks) only. Drunkards were virtually unheard of. Youths below the age of 20 were not permitted to drink the traditional Zulu brew *utshwala*, while women were only allowed to drink in private. *Utshwala* was a highly nutritious drink and was only moderately intoxicating. But much of the traditional role of beer in Zulu society was changed forever when Natal's African population came into contact with the white colonists. Africans who moved into the 'white' towns, whether voluntarily or through economic circumstance, were introduced to European liquors, such as brandy and Natal rum, which were of a highly intoxicating nature. In addition, Africans in the vicinity of the towns began to manufacture highly intoxicating concoctions such as *isishimiyana*. This perversion of traditional drinks and drinking habits even extended to the countryside where the nature of *utshwala* was changed, becoming stronger with the addition of new ingredients, and the control of the chief over drinking was undermined. Urbanised Africans who returned to their rural homesteads to visit family and friends had grown

unaccustomed to submitting to the authority of chiefs, headmen, elders and parents, and undoubtedly spread insubordination among their rural brethren. Released from all the traditional restrictions imposed by chiefs and parents, these town Africans, many of whom were young and revelled in their new-found freedom, were free to imbibe lustily of the new drinks on offer. Unaccustomed to drinking strong alcohol or indeed drinking at all, drunkenness was often the inevitable result. The bye-laws of Durban legislated against drunkenness and disturbing the peace, whereas traditional Zulu law only punished the crime which might result from drunkenness. The law of the white man said that drunkenness *per se* was a crime and as a result many Africans found themselves on the wrong end of the law. Having destroyed most of the traditional checks and balances of Zulu society, the white colonists attempted to control Africans by imposing their own mechanisms of control, principally legislation, police enforcement and judicial severity. But these methods were not always as effective as whites hoped they would be.

Between 1890 and 1894 the proportion of the African population convicted for drunkenness in the Borough of Durban remained consistent at about 11-12% of the African population. But since at least 1864 the 'progress' of Africans towards drunkenness had been significant; in 1864 a mere 1.6% of Africans in Durban were convicted for drunkenness, while by 1894 this figure had risen to 12.8%. Further evidence for this deterioration in traditional Zulu standards is the fact that in 1864 Africans contributed only 8% to the total drunkenness committed in the borough, but by 1894 this proportion had increased to 31%. The early perceptions of the white colonists that Africans were debauched and slaves to all sorts of immorality, such as heavy drinking, appeared to be confirmed by the reality of colonial life in Natal. Although Durban's white population (13 093) still outnumbered the Indian (5 898) and African (6 862) populations, it was the numerical threat of the colony's vast African population which exacerbated all the fears which whites harboured about the indigenous African population. By 1893 the African population of the colony numbered 476 992, compared to the Indian (41 208) and white (43 742) populations.<sup>(367)</sup> The deep-rooted fear of whites that this vast mass could become ungovernable and overrun Natal, leaving rape and murder in their wake, had not been softened by almost 70 years of colonial experience and there remained among whites an urgent desire to consolidate and extend their control over the region's African people. The mini rape scare of 1890-2 had done nothing for the confidence of white colonists who seemed to be reminded at periodic intervals (*viz.*, the rape scares of 1866-71, 1886-7 and 1890-2) of the dangers posed by the "kafir menace". These scares merely served to remind whites of the necessity to extend the mechanisms of control on a broad front. Liquor was alleged to lie at the heart of most crime and for this

<sup>367</sup>. NBB, Vol. 1, 1893.

reason the regulation of black drinking habits was seen to be of fundamental importance and an important component in the overall control of Natal's African population. During the 1890s further legislation had been passed in order to achieve this purpose. Law No. 10 of 1890, "To amend Law No. 22, 1878, entitled [sic] 'Law to prohibit the sale and disposal of spirits and other intoxicating liquor to persons of the Native race'" and Law No. 20 of 1890, "To regulate the sale and disposal of intoxicating liquors to Indians" were specifically intended to increase the dominance and control of the white colonists over the region's African population. The spectre of hordes of drunken, 'wild savages' perpetrating outrages on white women and children and destroying the tranquillity of 'their' colony loomed large in the white colonial psyche. More often than not this control was achieved under the guise of moral reform and many of the restrictive laws were alleged to be in the best interests of the Africans themselves, emanating from the desire on the part of whites to uplift the moral condition of the 'barbaric savages' whom they had discovered on their arrival in Natal. The great irony is that Natal's white colonists, far from influencing the moral state of the African population in any positive direction, were actually responsible for undermining the restraints and restrictions of the pre-colonial Zulu culture, thereby causing the phenomenon which they described as "kafir immorality".

## CHAPTER FIVE

### SEXUAL CRIMES AND SOCIAL ILLS

In this chapter crimes of a sexual nature and social ills will be examined in the light of the broader aims of this study as stated in the introduction. These crimes include "Kafir Outrages" (<sup>1</sup>), assault with intent (to commit a rape), housebreaking with intent, indecent assault or exposure, rape and prostitution. The emphasis is on outrages and assault and housebreaking with intent (particularly the rape scares of 1866-71 and 1886), while rape and prostitution are minor themes due to the paucity of sources available. (<sup>2</sup>) The focus is on sexual crimes committed by African men since these crimes constituted a serious social problem for the colony's white settlers, but sexual crimes committed by whites and Indians will also be considered as a point of comparison. Venereal diseases, such as syphilis and gonorrhoea, are also examined because they too appeared to threaten the social fabric of white, settler society. Other social ills, such as the presence of blacks in 'white' towns and the tigt labour system, will also be considered. The influence of the Anglo-Saxon culture, especially its sexual mores, on the indigenous, pre-colonial African culture, is also examined. Once again, the focus will be on sexual crimes committed in the Borough of Durban, but references are also made to other areas, Pietermaritzburg in particular, in order to construct a more complete picture for the colony as a whole. Legislation relating to sexual crimes and ills will be examined in detail since this was one of the principal mechanisms used by the settlers to control the region's black population. An attempt will be made to distinguish any correlation between crimes of a sexual nature and the prevailing state of the economy. The approach is essentially chronological and each decade is dealt with separately.

From about 1860 onwards so-called "Kafir Outrages" slowly but surely began to thread their way into Natal colonial society, causing consternation, anger, bitterness and fear among white people living in the region. The colonial press never failed to report such incidents, thus keeping this 'problem' constantly fresh in the minds and hearts of the local white population. The following is a typical example of one of these early outrages. Under the emotional headline "Gross Outrage", the Natal Mercury reported that,

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- <sup>1</sup>. "Kafir Outrages" were attacks of a sexual nature perpetrated by African men on white women and girls.
  - <sup>2</sup>. It is often difficult to distinguish between common assault, indecent assault, assault with intent to commit a rape and the actual crime of rape. White settlers perceived all such crimes as attempted rapes.

A few days ago a gross outrage was attempted by a kafir on two ladies, members of a respectable family residing a few miles from Durban. They were returning on foot by a bye-path, from a visit to a neighbour, about dusk, and the kafir rushed out of a bush at them, and maintained a violent and protracted struggle, tearing the dress of one of the ladies. At last he became alarmed by their cries for help and decamped. Search was made by the male members of the family in various directions, but no trace could be discovered of the miscreant. <sup>(3)</sup>

Whites, quite understandably, resented this real and perceived threat to their physical security and such incidents merely served to reinforce their perception of the African as aggressive, barbaric, uncivilised and immoral. Whites were determined to preserve and keep safe from African "outrages" the respectable portion of white society; women who had fallen from the norm of Victorian moral standards, however, were considered to be getting what they deserved and did not receive the sympathy of their fellow whites. The Victorian male saw himself as the guardian of his white woman and would go to any lengths to ensure her safety.

In order to attempt to understand the repugnance which whites felt towards the local African population, it is necessary to examine the perceived nature of African morality. Such examination reveals that vast cultural differences existed between the white and African races. Kidd has produced an interesting testimony on the perceived state of African morality in the early colonial days. <sup>(4)</sup> While it was a crime for a woman to violate her marriage vows, the husband could have as many concubines as he pleased without any sense of shame. In order not to interfere with the cattle-purchased rights of some other man, the man had to select these concubines from the ranks of unmarried girls or widows. It was not the women's rights that had to be respected, but the rights of the man who had paid for the exclusive use of the women. These unmarried girls were still as eligible for marriage as if they had never been concubines, and in the event of the girls having children - a very rare event owing to the knowledge of drugs producing abortion - the man had only to pay a fine to the girl's father. Every married woman was allowed to have a

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<sup>3</sup>. NM, 4 Oct. 1860.

<sup>4</sup>. Kidd quotes from the works of Theal, whom he regards as "a cautious and cool-headed observer" and a man who knew the Africans intimately, in order to support his argument. It is important to note, however, that Theal was a member of the racist, colonial school of historians. Nevertheless, the works of historians like Kidd and Theal provide important insights into how whites in the Colony of Natal perceived the local African population.

lover and no one thought anything of this custom which was "hoary with the sanction of antiquity." (5)

Kidd argues that, if by the word morality one means the relation of the sexes regarded as correct in England, then it would be absurd to call the Africans moral. This, indeed, was a fundamental problem in race relations in the Colony of Natal: the whites insisted on judging local Africans in terms of their own Anglo-Saxon culture and their Victorian morality. They were too dogmatic and narrow-minded to accept the existence of different cultures and the fact that all cultures have their perceived strengths and weaknesses. In their simplistic prejudice, all alien cultures were regarded as inferior to their own. Kidd says that only a fool or a knave would regard the Africans as a moral people :

If he does not know the hundred disgusting and vile customs allowed to all, even down to the small boys and girls; if he does not know the filthy and putrid customs which boys and girls are subjected to at puberty whereby the very roots of all decency are eradicated; if he does not know the erotic nature of the old men and the way they beg for aphrodisiacs; if he does not know the ghastly horrors and excesses which are perpetrated nightly in every kraal in the country under the protection of the word marriage - if he does not know these things, then he is a fool to pose as an authority. If he knows them, he is a knave to trade on the fact that such excesses are so utterly vile that they cannot be described in print, even in a self-respecting medical journal, or under the decent obscurity of a dead language. (6)

He says that it is wrong to assume that, because adultery was punishable by death according to old Zulu custom, the Africans were moral or pure-minded as a people. According to Kidd, adultery as the white man conceived it, was "violated every day among the Kafirs with impunity, and the ordinary punishment which follows is a small fine paid to the husband. Even this fine is not always demanded." (7) In pre-colonial times the guilty persons were sometimes put to death, especially when the woman was a wife of a chief. But even in this case, a fine would often put matters right and the reputation of the guilty persons would be looked on as fully established.

Kidd claims that in the very earliest days of missionary activity in Natal, mission stations were often hotbeds of immorality. At this time, when magistrates were few and far between, and chiefs used to kill off Africans who showed interest in the new teaching, missionaries had to buy large tracts of land so that they might have an

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5. D. Kidd, op. cit., p. 229.

6. D. Kidd, op. cit., p. 230.

7. D. Kidd, op. cit., p. 231.

area within which to protect their converts from the arbitrary cruelty of the chief. Some of the worst Africans duly left their homesteads and settled on these stations because "they knew the missionary could not punish their adultery in a drastic fashion, and that it was very easy to hide their practices from white men." <sup>(8)</sup> More recently, however, a more modern system had evolved in which the station was merely the home of the missionary who, in the customary presence of white magistrates, no longer acted with authority. As he owned practically no land, Africans could not take refuge with him. In order to support his argument, Kidd cites the alleged words of a missionary: "Do you believe that there is a single [African] man or woman in the whole country whose talk from morning to night is not one mass of putrid obscenity? Do you believe there is one person in the whole nation who is pure-minded and chaste?" <sup>(9)</sup>

Researchers such as Krige have identified various sexual crimes which were committed amongst the Zulus in their pre-colonial society - rape, incest, seduction, adultery, abortion, abduction and other forms of sexual perversions. <sup>(10)</sup> Sexual crimes were not only viewed in a very serious light, but were also regarded as ill-omened actions. Each of the above crimes will be considered separately:-

a) Rape - Although rape does not appear to have constituted a serious problem in Zulu society, it was regarded as a serious crime once it had been committed. Like many other crimes, it was looked upon as a crime against the king. Both rape and *hlobongaing* against a girl's will were regarded as family matters and were therefore not reported to the king. The normal penalty for rape was a fine of one to four head of cattle, part of which went to the family of the victim. However, there were also instances when rape was punishable by death. <sup>(11)</sup>

b) Incest - Zulus were not disposed to marrying within their own clan. A man committed incest if he married within certain degrees of relationship prohibited by custom. Such a man was referred to as *umthakathi*. The Zulus looked upon incest with absolute horror and attributed the dastardly deed to the seduction of a witch. The reactions of society to the crime of incest varied according to the closeness of the relationship of the parties concerned. If a man were to commit incest with his sister or with his father's young wife, his own people would put the 'dog' to death for disgracing the family. If, however, the relationship was less close, the people would be correspondingly less angry and the criminal would be banished instead of being

<sup>8</sup>. D. Kidd, op. cit., p. 233.

<sup>9</sup>. Ibid.

<sup>10</sup>. E.J. Krige, op. cit., p. 228.

<sup>11</sup>. S.M. Molema, The Bantu, Past and Present (Cape Town, 1968), p. 142.

killed. It was believed that the ancestors would punish the criminals by making their off-spring monsters. <sup>(12)</sup>

c) Seduction - Krige contends that seduction was a crime among the Zulus whether pregnancy resulted or not. The Zulus made allowance for retribution to be exacted each time a girl was seduced. Any girl who was seduced had to answer for her conduct not only to the mothers of the village, who would swear at her in the most insulting terms, but also to her peers, who had also been disgraced by her actions. For this reason, she would have to undergo an ordeal such as the following: She would be taken to the river to be examined as to whether the charge was true or not. If the charge was founded, she would be punished by her peers. On leaving the river, the girls would proceed to the boy's home, where they would demand a goat as a compensatory fine. If the goat was not given to them, the girls would seize one, slaughter it and smear the *umswane* on their bodies in order to purify or cleanse themselves. <sup>(13)</sup> Only after this ordeal did the parents of the girl bring their charge against the boy. The amount of damages recoverable for seduction was fixed; it consisted of one head of cattle, the so-called *ingqutu* beast which was payable to the mother in respect of the hymen of the girl. In other cases an *imvimba* or *imvala* beast was paid to the father. <sup>(14)</sup> If, however, the seducer married the girl, the damages he had paid were considered as part of the *lobola*. Prostitution, in the sense of a woman selling herself for financial gain, was a concept foreign to the Zulu culture. A girl who allowed herself to be deflowered (known as an *isirobo*) before marriage was regarded with contempt; people spat at her to show their disgust. For this reason, there were very few *izirobo* in Zulu society.

d) Adultery - was considered a very serious crime in traditional Zulu society. According to Ndaba, a James Stuart informant, adultery (*ukumbuyeza*) "was quite recently, and may still be, a very common occurrence in the country. It was prevalent a short time ago in Ingwavuma district." <sup>(15)</sup> A man who suspected his wife of committing adultery, took a medicine called *umsizo*, which allegedly possessed a mysterious power of conveying disease to the adulterer upon subsequent intercourse. The disease was also called *umsizo*. If adultery was followed by pregnancy, the child became the property of the husband of the wife who committed adultery, and not the child's natural father. <sup>(16)</sup>

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<sup>12</sup>. E.J. Krige, op. cit., pp. 224-5.

<sup>13</sup>. E.J. Krige, op. cit., pp. 157-8.

<sup>14</sup>. Ibid .

<sup>15</sup>. James Stuart Archive, Vol. 4, pp. 172-3.

<sup>16</sup>. E.J. Krige, op. cit., p. 157.

Adultery by a married woman did not automatically entitle the husband to divorce his wife, unless she was an habitual offender. <sup>(17)</sup> The husband could, however, recover damages from the wife's lover. Adultery was looked upon as a species of theft. The amount of damages was five head of cattle if the woman became pregnant and three head of cattle if she escaped impregnation. Divorce by judicial decree, as we know it today, was unknown in traditional Zulu culture. A man could simply drive the wife away if there was sufficient cause, for example, witchcraft or insubordination. <sup>(18)</sup>

e) Abduction - Landsdown <sup>(19)</sup> defines abduction as the removal of an unmarried person from the custody of his/her parents, or other persons having control over him or her without their consent, with the object of marrying or having sexual intercourse with him or her. In traditional Zululand acts as described above did take place. The custom of *ukubaleka* is one example. In this case the girl ran away to her sweetheart, forcing her parents to enter into marriage negotiations. <sup>(20)</sup> There was another variation of the *ukubaleka* known as *ukuthwala* (to carry). This custom involved the taking of an unmarried girl by force and by surprise to the suitor's home where she was forced to put on the clothes and insignia of a newly married wife. This type of abduction was usually arranged by the girl's parents and for this reason it was actually a form of marriage by capture. It was not uncommon at certain times for a *thwala* bride to run away to a man of her choice. <sup>(21)</sup> Although the custom of *ukuthwala* appears to be criminal, in practice it was not treated as a wrong-doing. There was no liability for the abduction, apart from the marriage payments. If however, no marriage took place, special damages could be claimed, especially if the girl had been seduced. <sup>(22)</sup> On occasions, the girl's father might be the chief motivator behind the *ukuthwala* custom. This custom was also resorted to if a girl rejected her lover who was determined to marry her. The boy with the help of a number of his friends would arrange to carry off the girl secretly to the boy's homestead. <sup>(23)</sup> The abduction of a married woman was regarded as an aggravated form of adultery and was therefore punished more severely. <sup>(24)</sup>

f) Ukuhlobonga (External Sexual Intercourse) - In Zulu society it was regarded as a serious crime for a young man to penetrate when having sexual intercourse with a

<sup>17</sup>. I. Schapera, op. cit., p. 205.

<sup>18</sup>. A.T. Bryant, The Zulu People, As They Were Before The White Man Came (Pietermaritzburg, 1967), p. 601.

<sup>19</sup> C.W.H. Landsdown, W.G. Hoal & A.V. Landsdown, S.A. Criminal Law and Procedure, Vol. 2, (Capetown, 1957), pp. 1635-6.

<sup>20</sup>. E.J. Krige, op. cit., p. 126.

<sup>21</sup>. E.J. Krige, op. cit., pp. 129-131.

<sup>22</sup>. I. Schapera, op. cit., p. 206.

<sup>23</sup>. I. Schapera, op. cit., p. 125.

<sup>24</sup>. I. Schapera, op. cit., p. 206.

girl before marriage. Children under the age of puberty often indulged in sexual relations. After puberty, however, the girls were strictly controlled by the older women. <sup>(25)</sup> In addition, Zulu mothers regularly examined their daughters *pudenda* in order to guard against defloration. Premarital sexual relations were therefore a crime unless they conformed with the following procedure: After a period of about three months, any young man who had been accepted by a girl could go to the *amaqhikiza* or older girls and ask for permission to *hlobonga* with his lover. Such permission was seldom refused since the custom, though technically unlawful, was nevertheless connived at by the older girls and the parents. Although *ukuhlobonga* was universally practised among the Zulus without any qualms of conscience, this ritual was still carried out in secret. <sup>(26)</sup> Girls often made appointments with their lovers; they would leave by stealth at night, proceed to the lover, *hlobonga*, and return again before daybreak. If caught they would be beaten, by the elder brothers in particular who were "big fellows with fierce tempers". A man who forced a girl to *hlobonga* with him would be soundly beaten by the girl's relatives and was liable to pay a beast if the girl became pregnant. <sup>(27)</sup>

g) Abortion - Although miscarriages (*ukupupuma isisu*) were rather frequent among the Zulus, the artificial procurement of abortion was rare. But it did occur especially among the royal girls in the *isigodlo*. In the case of miscarriages the Zulus used many preventatives generally called *umsekelo* or *umathunga* (*cyrtanthus obliquus*) or *umkhuhlu* (*strychnos*) and several other plants, many of them apparently possessing tonic properties. For procuring abortions, *uhlungu hlungu* (*vernonia corymbosa*) was their usual stand-by.

The above discussion clearly indicates that African law did recognise various sexual crimes and punishments were prescribed for those who contravened the law. Nevertheless, it was widely believed in the colony that "Kafir" law was incapable of "preserving common decency, and protecting [white] females from wanton and abominable insult." <sup>(28)</sup> Whites claimed that offences which in all European countries were severely punishable on criminal grounds, were perpetrated in Natal "with impunity by any rascal who can shelter himself beneath the disgraceful immunities of Kafir law." <sup>(29)</sup> This state of affairs could not be tolerated in a so-called 'civilised' community and as early as 1860 the white residents of Durban were calling on legislators to give the subject their most serious attention.

<sup>25</sup>. E.J. Krige, *op. cit.*, pp. 105-106.

<sup>26</sup>. A.T. Bryant, *The Zulu People*, p. 568.

<sup>27</sup>. *James Stuart Archive*, Vol. 4, p. 353.

<sup>28</sup>. *NM*, 6 Dec. 1860.

<sup>29</sup>. *Ibid.*

It is also important to understand Victorian attitudes to sex since these are fundamental in explaining the colonists' reactions to subjects such as prostitution, the social diseases and the rape scares which existed in Natal from time to time. Houghton has captured the Victorian frame of mind with regard to sex extremely well

In the Victorian home swarming with children sex was a secret. It was the skeleton in the parental chamber. No one mentioned it. Any untoward questions were answered with a white lie (it was the great age of the stork) or a shocked rebuke. From none of his elders - parent, teacher, or minister - did the Victorian child hear 'so much as one word in explanation of the true nature and functions of the reproductive organs.'<sup>(30)</sup> This conspiracy of silence was partly a mistaken effort to protect the child, especially the boy, from temptation (initially from masturbation, which was condemned on grounds of health as well as morals), but at bottom it sprang from a personal feeling of revulsion. For the sexual act was associated by many wives only with a duty and by most husbands with a necessary if pleasurable yielding to one's baser nature: by few, therefore, with an innocent and joyful experience. The silence which first aroused in the child a vague sense of shame was in fact a reflection of parental shame, and one suspects that some women, at any rate, would have been happy if the stork had been a reality. At school the knowledge acquired by the boy (most girls, it would seem, knew nothing before their marriage night) came to him in whispers and in a form which confirmed his first impression that sex was something nasty. When he reached puberty, the elders finally spoke, vaguely but pointedly, about 'uncleanness' of body and mind.<sup>(31)</sup>

Pearsall has shown that the basic attitude towards sexual matters of the middle classes was compounded of fear, alarm and shame. This meant that when anything approached sex in the course of conversation, "the shutters of the mind came down with a great slam."<sup>(32)</sup> The guilt and the shame that Victorians felt when confronted with sexual matters are related to a major premise, the devout belief and trust in a norm of sexual behaviour: sex more than twice a week was considered to be an unequivocal sign of the beast. The fact that a large percentage did indulge themselves at above the norm, that they did experiment with sexual positions, that they did not heed conventional proscriptions (eg., no intercourse during the latter stages of pregnancy), put them, in their own minds, in invincible straits, confirming their shame in the memory of having, during puberty, committed the unmentionable

<sup>30</sup>. The Science of Life, p. 9. cited in W.E. Houghton, op. cit., p. 353.

<sup>31</sup>. W.E. Houghton, op. cit., pp. 353-354.

<sup>32</sup>. R. Pearsall, The Worm in the Bud: The World of Victorian Sexuality (Harmondsworth, 1983), p. 629.

'self-abuse', namely masturbation. As Pearsall has concluded, "When one considers all the factors that encompassed Victorian man and woman, it is not surprising that their attitude towards sex was what it was; nor is it surprising that this attitude was constantly thwarted by their own instincts." <sup>(33)</sup>

Pearsall has noted that "If the Victorians had one golden rule, it was that it was better to be preoccupied by than occupied with sex." <sup>(34)</sup> The victims of this maxim were predominantly the middle class, who modelled their behaviour and thought processes on those of the upper classes, or what they thought was the behaviour and thought processes of the upper classes. But the middle classes were mistaken; the upper classes "did not give a damn about conventional morality, and pursued their libidinous pleasures with a gusto only tempered by occasional panic." <sup>(35)</sup> The middle class, painstakingly trying to evolve an image for itself, mistook the genteel for the pure and were distressed by the all too evident intrusion of the animal in man: "Sexual intercourse was a deed of darkness; sexual desire was something the well-bred man and woman should not have; anomalies and perversions were hurriedly thrust from the mind into a nether region where they festered and broke into strange cankers. Gentility was not programmed into the physical relationships between the sexes, ... ." <sup>(36)</sup>

Doctors and the clergy reassured the middle classes that there was a sexual norm and frightened those who happened to stray from this supposed norm. Doctors warned about the dangers of cancer and an early death for those who indulged excessively in sex. They established for their patients a code of sexual behaviour that was utterly arbitrary, based as it was on self-assured dogma rather than pragmatic investigation. The result was "repression when their strictures were obeyed, guilt and alarm when they were not." <sup>(37)</sup> The wives suffered more than the men, and hysteria, neurasthenia and complex anxiety cases pervaded middle class women. Forbidden by these unwritten laws of middle class existence not only to indulge in sex but to enjoy what there was of it, many women found that they became child-rearing vegetables while their husbands shelved their guilt and made use of the vast army of prostitutes, which may have numbered 120 000 in London alone. <sup>(38)</sup> The more repressed could see sex in everything; the shape of a grand piano became indecent and its legs were draped to avoid offending tender-minded young

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<sup>33</sup>. R. Pearsall, op. cit., p. 631.

<sup>34</sup>. R. Pearsall, op. cit., p. 15.

<sup>35</sup>. Ibid.

<sup>36</sup>. R. Pearsall, op. cit., p. 16.

<sup>37</sup>. Ibid.

<sup>38</sup>. Ibid.

ladies. The English language became a mine-field; not only did breast become bosom, but legs became limbs or even "unmentionables".

In order to keep body and mind untainted, the young boy was taught to view women as objects of the greatest respect and even awe. He was to consider nice women (such as his sister, his mother and his future bride) as creatures more like angels than human beings, an image calculated not only to dissociate love from sex, but to turn love into worship, the worship of purity. Of all the women in the world, the most pure - and the most useful as a sanction for adolescent chastity - was Mother. Every young Victorian was warned by his father never to do anything, think anything or imagine anything she would be ashamed of. In this way, "filial love, already increased in the Victorian family by the repression of sexual emotions, was exaggerated in the cause of moral censorship and control." <sup>(39)</sup>

After marriage, as much as before it, the Victorian ethic made fidelity the supreme virtue and sexual irregularity the blackest of sins. If a man was called a moral person, it meant, in the main, that he was "not impure in conduct". <sup>(40)</sup> Adultery, especially in the case of a wife and no matter what the extenuating circumstances, was spoken of with horror. A "feeble and erring woman" became, in fact, a social outcast. <sup>(41)</sup>

This ethic of purity - which remained in full force until Freud and the disruptive effect of war on moral standards and the widening knowledge of contraceptives combined around 1920 to undermine its prestige, though not to end its influence - was accompanied by the notorious phenomenon of Victorian prudery. The term implies an attempt to conceal the facts of life: examples of prudery would include the demand for expurgated editions of English classics, the drawing up of indexes of books or authors not to be read (especially by girls), the powerful condemnation of any candid treatment of sex in literature, the insistence that conversation be impeccably proper, even to the point of banning any words which might carry a sexual suggestion, and the disapproval of the slightest approach to levity. <sup>(42)</sup> Victorian prudery was mostly an excessive censorship intended to protect and support the code of chastity, or to prevent the embarrassment of looking at what was

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<sup>39</sup>. cited in W.E. Houghton, op. cit., p. 355.

<sup>40</sup>. W.R. Greg, 'False Morality of Lady Novelists,' Literary and Social Judgements, 1, pp. 136-7. cited in W.E. Houghton, op. cit., p.356.

<sup>41</sup>. Ibid.

<sup>42</sup>. Levity is the light treatment of serious things, especially sexual evil.

felt to be shameful. The Victorians wrongfully believed that sexual passion could be controlled by concealment and censorship. <sup>(43)</sup>

Houghton has identified three sources of anxiety amongst people living in the Victorian era:-

a) The first source of worry was the popularity of what was called "the literature of prostitution". People in Britain feared the influence of French writers such as Balzac, Sue, George Sand, Gautier, Baudelaire and Zola. Their literature was regarded as immoral and ungodly, and not suited to human consumption. But despite the reiterated attacks on their work in sermons, tracts and periodical reviews, French novels in the thirties were on sale in the most respectable London bookstores and had even found their way into ladies' book clubs. By the 1850s, a familiar acquaintance with even the worst class of French fiction was commonly displaced in the best society. Victorians looked with trepidation on a situation which appeared likely to corrode society's moral standards. <sup>(44)</sup>

b) A second source of anxiety was the philosophy, and to some extent the open practice, especially in America, of what was called free love. The theory was first formulated by the Utopian socialists, from Godwin, Mary Wollstonecraft, and Shelley to Fourier, Owen, and the Saint-Simonians, as a protest against the institution of marriage as it then existed. Shelley argued that "not even the intercourse of the sexes is exempt from the despotism of positive institution." As in the old political order, here too there was no freedom or equality, and therefore no happiness. For "love withers under constraint: its very essence is liberty: it is compatible neither with obedience, jealousy, nor fear: it is there most pure, perfect, and unlimited, where its votaries live in confidence, equality, and unreserve." <sup>(45)</sup>

Shelley believed that a husband and wife ought to remain united so long as they loved each other: "any law which should bind them to cohabitation for one moment after the decay of their affection would be a most intolerable tyranny, and the most unworthy of toleration ... Love is free: to promise for ever to love the same woman is not less absurd than to promise to believe the same creed." <sup>(46)</sup> Such ideas, however, were totally alien (and therefore frightening) to the Victorians. Equality was a far cry from the social and legal arrangements then existing between husband and wife, while liberty to escape from an unhappy marriage was almost impossible.

<sup>43</sup>. cited in W.E. Houghton, op. cit., pp. 357-8.

<sup>44</sup>. W.E. Houghton, op. cit., pp. 359-60.

<sup>45</sup>. Thomas Hutchinson (ed), Complete Poetical Works, (New York, 1933), pp. 796-797. cited in W.E. Houghton, op. cit., p. 361.

<sup>46</sup>. Ibid.

George Sands, an advocate of free love, was the foreign writer everyone had heard of and almost everyone was reading. No wonder her name was "for many years 'a word of fear' in British house-holds." (47) The Victorian fear of the philosophy of free love encouraged them to develop a more severe and repressive code of morality than they might otherwise have done.

c) The major reason why sex was so frightening to the Victorians was "the glaring fact that gave practical edge to the theoretical dangers of French novels and social theories - that sexual license in England not only existed on a large scale but seemed to be increasing." In 1867 Francis Newman wrote in Fraser's Magazine: "That libertinism of the most demoralizing character flourishes in London, in Paris, and in New York, cannot be a secret; nor that it is confined to no grade of society. But alas, the chief cities do but impress the imagination more, by the scale of the evil." (48) Newman is referring to the vices of adultery, seduction and prostitution. He goes on to remark that what makes the evil more intractable is that the offenders often appeal to the theory of "free love". A recurrent theme in the Victorian novel is the seduction of lower class girls. In 1857 Dr. William Acton said that no one acquainted with rural life would deny that seduction was "a sport and a habit with vast numbers of men, married ... and single, placed above the ranks of labour." (49)

Pearsall has summarised the Victorian outlook on life: "Overall, the Victorians opted for comfort, cosiness and the womb-like life of the family villa. In an age when respectable publications spelled damn d-n ... they peered out from behind their lace curtains at a world that was becoming more alien. This way of life had its advantages, but prurience and timidity brought with it a lop-sided way of looking at life, and the twentieth century is still left with its fruits." (50)

What these Victorian texts imply is more than confirmed by the statistics. In a single year (1851) 42 000 illegitimate children were born in England and Wales; and on that basis it was estimated that "one in twelve of the unmarried females in the country above the age of puberty have strayed from the path of virtue." (51) But seduction was only one of many factors which led through the middle nineteenth century to the alarming increase of what came to be called "The Great Social Evil". The growth of industrial cities providing a cover of secrecy, the starvation wages of

47. F.W.H. Myers, Essays: Modern (London, 1885), pp. 71-2. cited in W.E. Houghton, op. cit., p. 364.

48. W.E. Houghton, op. cit., pp. 364-5.

49. Prostitution, Considered in Its Moral, Social, and Sanitary Aspects, p. 175. cited in W.E. Houghton, op. cit., p. 365.

50. R. Pearsall, op. cit., p. 634.

51. W.E. Houghton, op. cit., p. 366.

women at the lowest economic level, the maintenance of large armed forces, and the social ambition which required the postponement of marriage until a young man could afford to live like a gentleman were important causes. By 1850 there were at least 50 000 prostitutes known to the police in England and Scotland, 8 000 in London alone. <sup>(52)</sup> In the 1860s Taine reported that in the Haymarket and the Strand "every hundred steps one jostles twenty harlots" and called prostitution "the real plague - sport of English society." <sup>(53)</sup> What is so striking about Victorian England is not just the number of prostitutes in a society that has come to be a byword for sexual repression, but the blatancy with which they carried on their trade, even in the heart of fashionable London. <sup>(54)</sup> Night-house tarts, expensive courtesans, sailors' whores, dolly-maps, synthetic virgins, children and catamites - these were only some of the many types of prostitute available to the Victorian with money in his pocket. <sup>(55)</sup>

Colonial Natal, being significantly less developed and industrialised than British society, did not reflect the same level or intensity of prostitution, but those settlers who thought that they had left behind these ills when they emigrated to Natal were in for a rude awakening. Although it is difficult to gauge the extent of prostitution in Natal, there is no doubt that it did exist, the high incidence of the social diseases bearing testimony to this. White, Indian and African prostitutes were available for customers who had both the desire and the money.

More than any other class of prostitute, child prostitutes in England were a product of the rookeries, "conditioned to depravity before they ever took to hawking themselves on the streets." <sup>(56)</sup> The towns of Durban and Maritzburg also had their rookeries. These were tumble-down sections of the town where Africans lived in all the poverty and squalor of industrial England. The lure of prostitution and immoral living in such areas must have been great. Whites regarded these rookeries as eye-sores and dens of iniquity, and demanded that they be demolished and that their African residents be moved to outside the town.

From about 1840 and rapidly increasing after 1850, a long series of books and articles brought the problem of English immorality into the open <sup>(57)</sup> and helped to

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<sup>52</sup>. 'Prostitution', Westminster Review, 53 (1850), p. 475. cited in W.E. Houghton, Ibid.

<sup>53</sup>. Notes on England, p. 36. cited in W.E. Houghton, Ibid.

<sup>54</sup>. K. Chesney, op. cit., p. 307.

<sup>55</sup>. K. Chesney, op. cit., p. 329-30.

<sup>56</sup>. K. Chesney, op. cit., p. 326.

<sup>57</sup>. In a brief search, Houghton found 16 books and 26 articles on prostitution published in England and Scotland between

inject fear into the Victorian mind. In particular, these works stressed that the prevalence of the vice of prostitution led not only to the decline and fall of individuals, but also to the deterioration of national character. Victorian prudery increased in an attempt to counteract these threats to their moral well-being. In the context of colonial Natal, the perceived immoral state of the local African population (and, from 1860, the immigrant Indian population) appeared to pose a massive threat to the supposed lofty moral standards of the Victorian settler in the colony. For this reason, whites attempted to mould and 'upgrade' the culture of the indigenous African tribes so that it would be more acceptable, and less of a threat, to the white people resident in Natal. The Utopian ideal in this regard was to make 'good little Englishmen' out of the African population. If this could be achieved, then the national character and moral well-being of Natal's white settlers would be preserved.

There can be little doubt that a great many English prostitutes were driven into the trade by the low wages and harsh conditions of so many of the industries open to women. Both Mayhew and Acton believe that poverty was the chief cause of this pressing social problem. <sup>(58)</sup> Sheer need drove many women towards prostitution, but there were also other social forces that encouraged it. Many of the people who were being packed into the industrial and seaport towns had become emancipated from traditional restraints without being subject to new ones. In an agricultural society, a woman who openly flouted conventional morality was likely to pay for it. In the urban setting however, a promiscuous woman found opportunities and inducements to prostitute herself that were not to be found in a country parish. Life in the cities was "chancier, more disorientated, and in important ways a lot freer." <sup>(59)</sup> Zulu women in Natal who moved to the towns experienced the same freedom as their counterparts in England. In the urban environment they were free from the patriarchal dominance of the countryside and were not accountable to anyone.

Sexual promiscuity was a vice which Natal's indigenous African population learnt from their white masters who had accumulated hundreds of years of sexually deviant experience in Europe. The James Stuart Archive provides some important insights into the nature and extent of European influence on Natal's African peoples. John Kumalo, an important headman at Roosboom in the Klip River Division, testified that Africans had two main grievances against the Government: (a) the rent charged by whites against Africans squatting on the land; (b) the loss of control of fathers over their daughters. He described a situation in which young African girls, determined to

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1840 and 1870. In comparison the publication during the previous thirty years (1810-40) was very slight.

<sup>58</sup>. K. Chesney, op. cit., p. 312.

<sup>59</sup>. Ibid.

exercise their freedom, left the countryside and went to work in the white towns, where they often came under negative influences and resorted to prostitution to earn a living:

natives object to their daughters having premarital relations with their lovers; they desire young men first to get permission. Girls may then have to be corrected (beaten); they run off to some town, like Ladysmith, to work; they engage in the service of some European woman; the father goes off to look for his daughter, finds her after some trouble, speaks to the mistress; in the meantime the girl, afraid of her father, goes on with her work; the mistress says, in her indifferent 'kitchen kafir', 'Oh, no, you can't have your daughter; she is engaged to work for me. If you want to talk about the matter, see my husband. He is away just now, but will be back soon.' The husband comes. 'What,' he says, 'you want your daughter? No, I can't let you have her; she is working.' Father goes off powerless to do any more. In course of time the girl will let a lot of dishes, plates etc. fall on the ground; she will then be beaten and dismissed by her mistress; she is afraid of returning to her angry father; she comes across gaudily dressed girls in the streets who question her and ultimately persuade her to join them and earn by prostitution that money which will enable her to dress as stylishly as her comrades. The girl goes entirely to the dogs, and the father curses his luck as he perceives no prospect of coming by the *lobola* which, but for this, was within his reach and his rightful due." <sup>(60)</sup>

Ndhlovu believed that these girls should be beaten and sent back home; they would then inform others what had happened to them and cause these to fear: "Very little drastic action would be sufficient to frighten native prostitutes away from Durban; they would soon become scared." <sup>(61)</sup> By 1902 one could observe the spectacle of girls carrying illegitimate children, not on their backs, but in their arms, à la the white woman.

Prostitution (and the accompanying venereal diseases) was a concept which was foreign to pre-colonial Zulu society. When interviewed on the subject, Ndukwana testified that the word *unondindwa* (prostitute) was not known in Zululand, nor even what the word indicated. In any case, there was no place for such a woman to conduct her business. <sup>(62)</sup> Mkando said that in Zululand there were very few *izirobo*. An *isirobo* was a girl who had allowed herself to be deflowered (*mekezisa*) while engaged in the act of premarital, external intercourse (*ukuhlobonga* or *ukusoma*). He stated that there were very few girls who, when *somaing*, did not take the necessary precautions guarding against the semen of the men passing into her, for

<sup>60</sup>. James Stuart Archive, Vol. 1, pp. 215-6.

<sup>61</sup>. Ibid.

<sup>62</sup>. James Stuart Archive, Vol. 4, pp. 351, 353.

she knew that she would lose value when the amount of *lobola* was fixed on marriage. <sup>(63)</sup> In addition, she knew that *izirobo* were treated with great contempt; people spat at or towards them to show the disgust they felt for them. Mkando distinguished between an *isifebe* (a flirt), who was a girl who *hlobonga'd* with two or more men during the same month, but did not allow herself to be deflowered and was not in disgrace, and an *isirobo*, who had been deflowered and was "like a prostitute, though of course she did not sell herself for money or hire, such a proceeding being foreign to native ideas." <sup>(64)</sup> Ndhlovu, another respondent, said that prostitutes were "a disgrace to the land". <sup>(65)</sup> It is clear, therefore, that African girls who became prostitutes in white towns were engaging in behaviour which was fundamentally foreign to a Zulu culture which placed a high degree of propriety on the moral standards of its subjects. As the foregoing evidence indicates, women who transgressed these sexual parameters were in disgrace and could become outcasts from their tribes. For this reason, African women who prostituted themselves in the white towns became locked into this way of life since they had broken the rules of their culture and were no longer welcome at home.

John Kumalo and Soloman Mabaso both emphasised the development of independence among African children, girls and boys. This was, in their opinion, a direct result of contact with the English system which "is apparently to allow everyone to do as he or she likes." <sup>(66)</sup> Whereas a white girl was allowed a free choice of her husband, the Zulu custom was to exercise control over the marriages of their children and to induce them to marry where, by long experience, the father had found to be the most desirable direction, not only where he might acquire cattle (*lobola*), but where he felt that his child's welfare would receive the greatest care and attention. Since the white man had arrived, however, African youths had begun to express the desire to choose their own partners. In Mabaso's view, the efforts of the father were being destroyed by the influence of others:

a man may naturally desire to bring about a marriage of his daughter with a particular young man; this girl, if left alone, might have married the proposed person quite contentedly and lived happily afterwards, but she will associate with others of her own age and these girls will suggest to her that she may successfully withstand her father's wish and marry whomsoever her own heart most truly fancies. This then leads to disharmony between father and daughter, and the negotiations for a marriage, eminently desirable in every way from the parent's point of

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<sup>63</sup>. Only the sons of kings were allowed to penetrate the girl during premarital intercourse.

<sup>64</sup>. James Stuart Archive, Vol. 3, pp. 147-8.

<sup>65</sup>. James Stuart Archive, Vol. 4, p. 209.

<sup>66</sup>. James Stuart Archive, Vol. 1, p. 237.

view, are brought to nought by the uncontrollable caprice of a girl. <sup>(67)</sup>

Mabaso complained that as soon as black girls reached the age of 21, an age which had significance in white society, but no traditional meaning in Zulu tribal society, they now proclaimed their independence from their parents. In his opinion, it was "this allowing children to follow their own desires (*izinkanuka*) that tends to bring about the unsatisfactory state of affairs that exists." <sup>(68)</sup> Another destructive tendency was observable in "everyone being a little king on his own dunghill." <sup>(69)</sup> Too many people saw themselves as *amakosi*.

John Kumalo, John Africa and Ndukwana agreed that the frequency of seduction (making pregnant) of girls had become "altogether abnormal and a matter which calls out urgently for treatment." <sup>(70)</sup> They assured Stuart that nothing of this kind had ever occurred under the Zulu kings. While seductions did occur on occasions, a girl who became pregnant was looked upon as having disgraced herself and, though *vimba'd*, was immediately married off to some other man, and the meat of the beast killed in her honour would not be partaken of by the other girls. <sup>(71)</sup> Pregnancy arose through sheer accident. In recent times, however, young men often pleaded 'accident' when in fact there had been deliberate sexual intercourse. Ndukwana outlined the cause of seduction and suggested a possible solution:

The cause of boys making girls pregnant is because boys and especially girls have defied their parents; formerly, when admonished about their behaviour, they were obedient. All natives therefore ought to surrender or hand over their children to Europeans, as the correction to be given by them would probably be more effective than that of parents who, to a very great extent, as is evident from this universal seduction, have lost their influence. <sup>(72)</sup>

Kumalo, on the other hand, blamed the white man for failing to look after the young African girls who came to town: "their girls come to the very doors and houses of the white people; they get into mischief whilst there; they misbehave before white people's very eyes, whereupon, having done wrong, Europeans become

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<sup>67</sup>. Ibid.

<sup>68</sup>. Ibid.

<sup>69</sup>. Ibid.

<sup>70</sup>. James Stuart Archive, Vol. 1, p. 225.

<sup>71</sup>. *Imvimba* is the term for the beast given by a seducer to the parents of the girl he has injured. It goes with her to her husband when she marries. *Vimba'd* (from the verb *ukuvimba*) as used in the text means that the beast had been handed over by the seducer.

<sup>72</sup>. James Stuart Archive, Vol. 1, p. 231.

exasperated with them and get rid of them." (<sup>73</sup>) African girls who fell out with their employers could turn to prostitution as an alternative and independent source of income. In his view, therefore, whites were helping to push African girls down the path towards immorality.

John Kumalo believed that the Africans themselves were contributing to their own downfall. He recounted a tale in which one of his children was accosted by a soldier who believed her to be a prostitute. When informed that she was not a prostitute, he not only went away, but the next time he saw her in the street he touched his hat to her and humbly said, "Good-day, ma'm". Soldiers were attracted by dissolute women and, being unable to distinguish, tended to approach respectable African women, thinking that all were inclined to loose living. (<sup>74</sup>) Essentially, Kumalo was indicating that African women needed to take charge over their own moral condition and desist from succumbing to the dingy morality of white men. In this way, they would gain the respect, instead of the condemnation, of white society.

The above respondents drew attention to the increasing freedom of African girls from parental influence and of African women from the influence of their husbands:

"When girls or women visit Ladysmith they may go to any houses they like, and the same remark applies when in native locations. They leave home; no time is fixed for their return and, if fixed, the time will probably be overstayed, leaving the father and husband to get on at home with the young children and food as best he can." (<sup>75</sup>)

Kumalo observed that "when [white] girls leave home, it is known exactly where they are going; in the evening they have chaperones, and it is known when they are due back, and they obey their parents' wishes." In former times African women and girls had rarely left home except on special occasions such as weddings, and when they went they would return all together with their brothers and young men. Africa believed that all girls, while still young, should be 'bent' in the right direction. Owing to present influences, however, there was no opportunity for exercising that corrective influence. Africa pointed to circumcision, both of young men and girls, which used to go on in the old days under the Zulu kings, the latter being required to go to the hills for three months, during which time they were instructed and admonished in preparation for womanhood by elderly women who stayed with them. (<sup>76</sup>) In more recent times, however, this practice did not always take place, meaning that young girls were often not prepared for the moral and sexual pressures they

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<sup>73</sup>. Ibid.

<sup>74</sup>. James Stuart Archive, Vol. 4, p. 341.

<sup>75</sup>. James Stuart Archive, Vol. 1, p. 231.

<sup>76</sup>. Africa's assertion is denied by Kumalo and Ndukwana.

faced as they moved through adolescence, particularly those who moved into the white towns. <sup>(77)</sup>

Stephen Mini testified further on the increasing independence of African women from their husbands. The facility with which African women could now divorce their husbands meant that they could escape from the traditional bondage which marriage had always implied. He said that there was no concept of divorce in Zulu custom. If husband and wife developed a major rift, the man would leave the woman temporarily and the following procedure would be adopted: "The plan was to punish the husband as a means of softening the wife's attitude to him - excite her compassion. Matters would then be placed in a fair way for being repaired. The husband could be ordered to pay back all expenses incurred by the wife on account of food during such time as he had lived apart from his wife, and, in addition to this, he could be ordered to pay a fine to the chief (state)." <sup>(78)</sup> The Anglo-Saxon culture, however, had introduced the notion of divorce (permanent separation) to Natal's African peoples, a concept which allegedly contributed to the immorality of African women. Mini claimed that divorced women constituted the real evil of prostitution. These women, released from the jurisdiction of their husbands and perhaps cast out by their own kin, often resorted to prostitution to sustain themselves.

While African parents were more concerned about losing control of their daughters (and, therefore, their *lobola*), they were also unhappy about the increasing independence and freedom of their sons. An increasing number of young men began to leave home to seek their fortunes on the diamond and gold fields and in the white towns where they became alienated from their own culture. Removed from the authority of their chief and parents, these youths lived a *laissez faire* existence free from any of the pre-colonial restraints on their behaviour. In terms of sexual behaviour, they were free to take as many lovers as they desired and to engage in full, penetrative intercourse. Ndhlovu stated that in the towns sex (*isibunu*) was plentiful and easily obtainable, and boys in consequence no longer cared for the purer girls in the country. They could obtain all the sexual intercourse they desired by paying money for it. <sup>(79)</sup> Ndukwana said that "Boys don't go home because of prostitutes (*unondindwa*)." <sup>(80)</sup> Slowly, but surely, they began to assume the moral outlook of the white man. Venereal diseases which were acquired in town were transferred to the rural areas when these men went home to visit. Tales of 'the good life' in the towns also went home, together with attitudes which had been moulded by

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<sup>77</sup>. James Stuart Archive, Vol. 1, p. 227.

<sup>78</sup>. James Stuart Archive, Vol. 3, p. 133.

<sup>79</sup>. James Stuart Archive, Vol. 4, p. 209.

<sup>80</sup>. James Stuart Archive, Vol. 4, p. 351.

the peculiar environment of towns in which the ruling culture was the white Anglo-Saxon culture.

John Kumalo testified that "in the old days there was nothing of the kind going on."<sup>(81)</sup> The present laxity of African moral standards had developed as a result of contact with the white man. The first case he remembered of a girl leaving her parents to go to work for white people was in Pietermaritzburg about 30-40 years previously (i.e., c 1860-70) about the time of Prince Alfred's visit to Natal.<sup>(82)</sup> He himself was employed in the town at the time and he recounts the story of a girl, beyond 15 years of age, who came to work next door to him. After a while her father arrived in Maritzburg, determined to take the girl home with him. But the girl's employer resisted fiercely, striking the father with his fist. When the father went to the court to complain, the clerk of the court told him that nothing could be done as the girl had engaged her services to the white employer. Kumalo concludes his story as follows: "Repulsed both by the European and the court, what more could the father do than go home? The upshot was that in time this girl left her employer, joined others in the town like herself who had no home to go to, and, after apprenticing herself to them, became herself a prostitute, after which what necessity to tell her story further?"<sup>(83)</sup> Kumalo's testimony shows that contact with white society was undermining the authority which an African father enjoyed over his children and in some cases was leading to unrestrained immorality.

Soloman Mabaso said that the first occasion on which he had observed unsatisfactory conduct on the part of girls was in the year 1872 at the German mission station established by Rev. Posselt. He remembered a young man living at the station who had been chosen as a lover by three girls, meaning that he would have to *hlobonga* with each of them in accordance with African custom. When the older men took him to the missionary in charge, he refused to interfere until "actual and visible wrong and injury had been done."<sup>(84)</sup> The men remonstrated, saying harm had been done by the mere fact of engagement, for the young man would succeed in meeting each of his girls secretly, and with ease evade detection by their respective fathers. But the missionary refused to budge on the matter. In Mabaso's view, "the evil was not nipped in the bud, the result being things proceeded from bad to worse."<sup>(85)</sup> Clearly, the European influence emanating from the mission station was contributing to the dislocation and disintegration of Zulu moral values.

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<sup>81</sup>. James Stuart Archive, Vol. 1, p. 232.

<sup>82</sup>. Prince Alfred visited Natal during 1860.

<sup>83</sup>. James Stuart Archive, Vol. 1, p. 235.

<sup>84</sup>. Ibid.

<sup>85</sup>. Ibid.

In another instance Mabaso himself, who lived at this mission station during his youth, had been "liked" by four girls, three Xhosa and a Basuto. He described the situation as follows: "Now what at once struck me in being liked by these girls was the fact that they, without my courting them, liked me and proceeded to attach themselves to me. I could not understand how a girl can select without first being selected. Did mere looking at a girl constitute courtship? I did not, in consequence of this state of affairs, care really for any of these girls who had thrown themselves at me." <sup>(86)</sup> Once again, the perception of Mabaso was that Christianity (*ukukanya*) and contact with the value system of white man was merely serving to break down the practices of the Zulu culture: "the truth of the matter was that *ukukanya* (Christianity) was the cause of the mischief." <sup>(87)</sup> The feeling was that missionaries protected children from their fathers, thus undermining the traditional authority of the head of the family. Mabaso had seen weddings taking place and after they had been concluded the guests remained on, congregated as before for two or three days; such a practice led to trouble. Another cause of immorality was young men coming with concertinas; the playing of these drew audiences, and here again the coming together of the sexes brought trouble, for they went home, when they dispersed, two and two in the dark. In Mabaso's opinion, "In such ways did parents begin to lose control over their children." <sup>(88)</sup>

Indeed, many Africans, chiefs and fathers in particular, saw the mission stations (and therefore Christianity) as undermining the Zulu culture and their structures of authority. Mkando, an aged resident of the Mapumulo Division, expressed the fears of many Zulu parents: "Our children go off and become converts. We have no control over them. We are in trouble. Our children lose contact with their homes, and we lose that wealth which according to ancient custom is vested in them." <sup>(89)</sup> Mqaikana's perceptions of Christianity were shared by many Zulus: "I cannot make out how our people can be converted to Christianity, for those who say they are *kolwas* indulge in illicit intercourse and *takata* - they commit all sorts of offences unknown to us. This makes me wonder what kind of belief this is they have adopted." <sup>(90)</sup> Most mission stations acquired a reputation as "the haunts of disreputable characters with libertine habits which threatened to contaminate others." <sup>(91)</sup> Heathen Africans described station residents as "thieves and rogues", while mission stations were painted as "sinks of iniquity" and breeding grounds for

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<sup>86</sup>. Ibid.

<sup>87</sup>. James Stuart Archive, Vol. 1, p. 232.

<sup>88</sup>. Ibid.

<sup>89</sup>. James Stuart Archive, Vol. 3, p. 155.

<sup>90</sup>. James Stuart Archive, Vol.4, p. 14. *Ukuthakatha* means to use supernatural forces for evil purposes.

<sup>91</sup>. N. Etherington, Preachers, peasants and politics in south east Africa, 1835-1880 (London, 1978), p. 67.

unchaste and unmanageable women. Three Zulu refugees who arrived at the Anglican mission station at Ladysmith in 1876 were horrified by the sexual irregularities rife at that place. Stations such as the Methodist station at Indaleni and the Anglican station at Highflats had notoriously bad reputations as centres for no-good drifters and witches. <sup>(92)</sup>

By the 1870s tensions between parents and children had affected most of the well-established mission stations. At Edendale parents sent a petition to the Secretary for Native Affairs asking that something be done to curb the drinking, licentiousness and general disrespect for authority shown by the younger generation. <sup>(93)</sup> While these allegations may have been exaggerated, they do reflect parental anxiety that "the younger branches of our families think they know more than we do." <sup>(94)</sup> *Amakolwa* were criticised for trying to emulate the white man: "A *kolwa* tends to regard himself as being a white man, and to do nothing that appertains to his own people (*uhlanga*), but in that very act a man goes astray. He fancies he is greater than a member of the ordinary *uhlanga*, for he looks on himself as a privileged person, viz. one who converses with God himself." <sup>(95)</sup>

Philip Mhlanimpofu, chief of the *kholwa* at Groutville, complained bitterly about one of the converts at the station, alleging that he showed disrespect towards his chief and promoted immorality among African girls. He complained that a man called Mqwebu, appointed by the Government as Postmaster, was in the habit of calling together *kwaya* (choir) meetings to which girls of loose morals came. Mhlanimpofu had ordered him to desist from holding such meetings, but he had refused, arguing that the chief had no authority over him since he was exempted from Native Law. The chief described these meetings as follows: "At these *kwaya* meetings things are said which ought not to be said in public or anywhere. After each meeting disperses, boys go off to the surrounding bushes and have illicit intercourse (*pinga*) with the girls - and this includes Mqwebu himself, although he is a married man." <sup>(96)</sup> Mqwebu was disrespectful and overbearing when he came into church and payed no heed to the chief's rebukes. The chief complained that the girls in the choir, about 10 in number, did not fear their fathers; in the times of the Zulu kings, he argued, "this kind of thing could not have occurred, for the wrongdoers would have been

<sup>92</sup>. N. Etherington, *Preachers*, pp. 67-8.

<sup>93</sup>. Eva to J.W. Shepstone, 9 June 1877, SNA 1/1/29. cited in N. Etherington, *Preachers*, p. 140.

<sup>94</sup>. Testimony of J. Matiwane, Evidence taken before the Natal Native Commission, 1881 (Pietermaritzburg, 1882). cited in N. Etherington, *Preachers*, p. 150.

<sup>95</sup>. *James Stuart Archive*, Vol. 4, p. 15.

<sup>96</sup>. *James Stuart Archive*, Vol. 3, p. 126.

beaten." (<sup>97</sup>) The chief stated that some heads of homesteads found it impossible to prevent their daughters from wandering and a number of them had ceased to make any further efforts in this regard. He lamented that even the Magistrate, Mr. Bennett, had told him that he had no right to attempt to control the exempted Africans in any way and they could do as they liked, like Europeans. Experiences such as the foregoing promoted hostility among Africans towards the mission stations. There can be little doubt that, despite the very best intentions, the white man was contributing towards the disintegration of pre-colonial Zulu sexual norms through the medium of mission stations.

Josiah Africa, a resident of Ladysmith since 1860, testified that his first knowledge of loose morals among African girls was at the time of the Anglo-Zulu War of 1879 when hundreds of wagons and their drivers had arrived in Ladysmith and stationed themselves in the area. (<sup>98</sup>) Africa described the scenario which developed as follows:

The commissariat was of stupendous proportions. Now all these wagons were driven by Xozas, Cape Boys, Hottentots etc., whilst a considerable number of Hottentots went on to the front, being enrolled as Light Horse. No sooner did this concourse of men arrive than the *kolwa* and other native women began to go wrong. The women ran after the foreigners who had arrived. At that day did that blight begin which ever since has remained over Ladysmith, for large numbers of Xozas, Cape Boys etc. who arrived are here to this day with all their progeny. (<sup>99</sup>)

These women, free from the restrictions of their traditional societies, thus began to learn a vice (prostitution) from their white masters which was almost unheard of in Zululand. Even Christian women living on mission stations succumbed to the attractions of monetary wealth, which contact with white civilization had forced upon them. (<sup>100</sup>)

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<sup>97</sup>. Ibid.

<sup>98</sup>. Ladysmith was the base of supplies for troops which had gone into Zululand.

<sup>99</sup>. James Stuart Archive, Vol. 1, p. 236. *Ikolwa*, literally "a believer", was generally used to refer to a Christian convert, but was also loosely applied to an African exempted from Native Law or who had adopted recognizable features of European culture.

<sup>100</sup>. There is some debate as to the extent of prostitution among African converts. Stephen Mini, chief of the *kolwas* at Edendale, claimed that there was very little prostitution at this station. The root of prostitution, in his opinion, was the facility given to divorce. A few girls became dissolute, but the real evil was the divorced women. James Stuart Archive, Vol. 3, p. 133.

James Stuart observed that the question of the loose morality of African girls seemed to resolve itself into a conflict between the Government of Natal and parental authority. In pre-colonial Natal and Zululand there was never any conflict between the state and the parent; all heads of homesteads were treated with the very highest respect and were in fact the true kings of Zululand. In Natal, however, a struggle had developed in which the Government stood in direct opposition to the householder. This opposition arose out of the will to protect whatever appeared to be oppressed. The essence of the position, the *ultima ratio*, was the principle of the strong protecting the weak from an exercise of the authority of the original owner. <sup>(101)</sup> The effect of the Government's policy, however, had been to undermine the validity of Native Law, to destroy the traditional authority of fathers over their children and to promote loose living by the African youth, who acquired all the vices of white civilization which they encountered in the towns of Natal, Durban, Maritzburg and Ladysmith in particular.

The testimonies of various African men as given to James Stuart clearly reveal that the Anglo-Saxon culture, brought to Natal by the white man, had a significant and detrimental influence on the pre-colonial value system of the region's indigenous African people. Contact with white society and the dominant European culture led to a deterioration in the moral condition of the local African people. The manifestations of this process included the seduction and prostitution of girls and the development of venereal diseases among them, the loss of respect for parental authority (both among boys and girls), disrespect for constituted authority (chiefs in particular) and a new-found lust for material possessions, which could only be acquired through money or crime. It is ironic that the white colonists of Natal frequently criticised the African population for their low standards of morality and did everything in their power to 'raise' their standards to the perceived lofty levels of the European culture. They failed to perceive that the Zulu culture provided all sorts of checks and balances against immoral living and imposed heavy punishments on those found guilty of sexual offences. Instead, they tried to impose their culture on the Zulu culture and merely succeeded in bringing all the vices of industrial England - the use of strong alcohol, prostitution and venereal diseases, divorce and dishonesty - to bear upon the rustic simplicity of the region's African people.

Venereal disease in Victorian England was undoubtedly widespread, but it is difficult to gauge the exact extent of the disease. In the mid-nineteenth century the etiology of both syphilis and gonorrhoea was very little understood (some medical men

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<sup>101</sup>. James Stuart Archive, Vol. 1, p. 236.

thought gonorrhoea spontaneously generated by over-indulgence), the diagnosis of the less obvious symptoms was constantly mistaken, and cures were painful, protracted and doubtful, except perhaps with gonorrhoea tackled in its early stages. Confusion was compounded by the guilt and secrecy attached to what many people believed to be a dispensation of wrathful providence. Something of the feelings evoked by venereal disease is shown by the fact that, despite its prevalence, many general hospitals made no provision for treating it and in those which did patients were usually put into a pariah section officially known as "The Foul Ward". In 1856 there were less than three hundred beds in London charity hospitals allotted to venereal patients, including the two or three smallish foundations specialising in such cases. Yet three major hospitals (Guy's, St. Bartholomew's and King's College) treated 30 000 V.D. cases during the year and half the surgical out-patients at St. Thomas's fell into this category. <sup>(102)</sup> Natal also suffered from a lack of facilities for the treatment of the social diseases. While some provision was eventually made for treating the so-called immoral element in society, the authorities appeared reluctant to acknowledge the problem and to tackle it head-on. Like their Victorian cousins back in England, the white settlers in Natal considered such subjects to be rather unsavory and preferred to leave them alone in the hope that they might go away.

In England there was widespread opposition to the Contagious Diseases Acts. In particular, Josephine Butler campaigned tirelessly for the repeal of these Acts. She found it intolerable that women should be debauched for men's satisfaction and then treated as the offenders. In decent but unequivocal language she laid stress on the affront to modesty of compulsory vaginal inspections, a point which struck home powerfully to a Victorian audience. <sup>(103)</sup> The C.D. Acts were suspended in 1883 and repealed three years later. In Natal Contagious Diseases Bills came before the Legislative Council in 1886 and 1890, but failed to pass into law on both occasions. The very existence of such bills, however, shows that the question of social diseases in colonial Natal was regarded as problematic. The British brought not only themselves to Natal, but also the majority of the social problems which had plagued them back home. In building the Colony of Natal, they managed to create a model of England in most respects.

In April 1861 the Natal Mercury reported that outrages were occurring once again after a period of absence. It claimed that "as a community we [i.e. Durban] are singularly free from any serious breaches of law and order, and the lapses that have

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<sup>102</sup>. H.B. Acton, op. cit. cited in K. Chesney, op. cit., p. 355.

<sup>103</sup>. Cited in K. Chesney, op. cit., pp. 360-1.

occurred are rendered more conspicuous by the general absence of such disturbances." (104) In the latest incidents, assaults had been committed on two young females, both in the secluded part of Smith Street near Mr. Hoffmann's store. Both assaults were considered to be "very malignant" in nature; one of the girls had her mouth filled with sand, while the other was half strangled by the violent twisting of a boa she had around her neck. (105) The intention of the assailant appeared to be "the infliction of serious bodily injury on his victims", but he was frustrated in his object by the appearance of passers-by. (106) As was so often the case, the police had been unable to track down the miscreant, but the Natal Mercury expressed the hope that if he was caught, he would "be made to rue physically and mentally that he ever ventured to lay a hand on European females." (107) It warned that if any repetition of such assaults took place, the burgesses would be compelled to reorganise their Vigilance Committee, both as a measure of precaution and as a means of capturing offenders. Other incidents such as a brick being thrown through someone's door, and the stealing of a cash box and other valuables from a hairdresser called Jonsson, prompted the Natal Mercury to report that "there appear to be some bad characters about the place, and we only regret that the police force is so utterly inadequate for our requirements." (108) They estimated that treble the existing number of constables was needed in order to police the town effectively and that ample provision was required for night patrols in particular: "Life and property must be protected whatever the cost may be. This is a matter that calls loudly for immediate reform." (109)

The installation of 25 street lamps in Durban in 1861 appeared to offer increased security to white pedestrians who frequented the town at night. These lamps were seen as "invaluable appendages" and were regarded as "an unspeakable boon to pedestrians". (110) It was hoped that they would help to preserve "unprotected females from molestation". (111)

By 1863 "kafir outrages" were becoming quite common and appeared to be causing great disruption in the lives of white people living in the Durban area. The issue struck hard at the very roots of Victorian morality and family life, and the feeling developed amongst the town's white population that their value system was in danger of mortal injury from a people who were essentially "depraved". It is

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<sup>104</sup>. NM, 18 April 1861.

<sup>105</sup>. Ibid.

<sup>106</sup>. Ibid.

<sup>107</sup>. Ibid.

<sup>108</sup>. Ibid.

<sup>109</sup>. Ibid.

<sup>110</sup>. NM, 18 April 1861.

<sup>111</sup>. Ibid.

necessary to explain the fundamental importance of the Victorian home at this juncture. Houghton has captured the essence of an Englishman's home most accurately: "It was both a shelter *from* the anxieties of modern life, a place of peace where the longings of the soul might be realized (if not in fact, in imagination) and a shelter *for* those moral and spiritual values which the commercial spirit and the critical spirit were threatening to destroy, and therefore also a sacred place, a temple. The peace it promised was partly ... that of a rock in the midst of a rushing stream." (<sup>112</sup>) The Industrial Revolution in Britain had created "a psychological and amoral atmosphere for which an idealized home with its high priestess (the mother) offered a compensating sense of humanity and moral direction." (<sup>113</sup>) The Englishman's home was his castle, his protection from the outside world. The foregoing description helps to explain why the "social pest" in white homes was regarded as a mighty violation; to attempt to violate an Englishman's wife within the precincts of his own home was one of the most despicable crimes imaginable. It is small wonder that crimes of this description rocked the very foundations of colonial society.

The danger which African men appeared to pose towards young white girls in particular, injected considerable indignation and anger into the Victorian father who vowed to protect his children at any cost. The Victorian father was supposed to be a gentleman, who loved and cherished his family and kept them safe from dangers presented by the outside world: "... to have lofty aims, to lead a pure life, to keep your honour virgin; to have the esteem of your fellow-citizens, and the love of your fireside; to bear good fortune meakly; to suffer evil with constancy; and through evil or good to maintain truth always. [Whoever has these qualities] we will salute as [a] gentleman." (<sup>114</sup>) An African who entered the home of a Victorian father and attempted to violate his wife and children was initiating a situation which took gravity to new levels.

The following type of "outrage" became a fairly common occurrence: "On Christmas night, the daughter of a burgess of this town was suddenly awoke by a Kafir who had placed his hand upon her person. She immediately screamed out at the top of her voice, and aroused her father, who was sleeping in a neighbouring room, but who was so taken aback by the suddenness of the occurrence that the villainous intruder succeeded in escaping. He was believed to have been the native employed by the family." (<sup>115</sup>) Residents were somewhat at a loss to explain these incidents, apart

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<sup>112</sup>. W.E. Houghton, op. cit., p. 343.

<sup>113</sup>. W.E. Houghton, op. cit., p. 393.

<sup>114</sup>. Thackeray's lecture "George the Fourth" (1861), Works, 7, p. 710. cited in W.E. Houghton, op. cit., p. 359.

<sup>115</sup>. NM, 6 Jan. 1863.

from the usual argument that they were merely examples of the sensuous, essentially immoral nature of the "kafir savage". Their only solution was to insist that the extreme rigor of the law be carried out towards these culprits "whose vicious propensities seem[ed] insensible to the common dissuasive of fear." (<sup>116</sup>)

If it was not "kafir outrages", Victorian Natalians usually found something else to shock their peculiar moral senses. The question of bathing at local beaches provides a useful example. At spring tides it was considered impossible for any female to pass along the beach, about high water time, without having her sense of propriety shocked. The Town Council was requested to provide "cheap and simple means by which the privilege might be secured to the burgesses without the sacrifice of decency it now entails." (<sup>117</sup>) It was suggested that this purpose might be achieved through the erection of simple boarding, the use of machines or by adopting the American and continental fashion of bathing dresses for both sexes. A bye-law, forbidding people publicly undressing on the Bay-beach, had recently been passed to address the problem. The "indiscriminate" bathing of Africans in the immediate proximity of white children was cause for even greater concern. During the early afternoon, when large numbers of white children - mostly girls - were taking advantage of the tide, adult Africans could be seen swimming in the vicinity. This practice was deemed to be "most objectionable" for reasons apparently "patent to all". (<sup>118</sup>) While acknowledging that the prevention of this might "recognise a class distinction", the Natal Mercury found that "social peculiarities render[ed] [such action] imperative." (<sup>119</sup>) But it was not class that concerned whites living in the Colony of Natal; it was race. In their Victorian haughtiness, white people considered that close contact with an 'inferior' race would merely serve to break down their own Anglo-Saxon standards and would provide African men with opportunities to brutalise white women and children. In short, whites had absolutely no desire to have any unnecessary contact with the 'uncivilised' race of Africans living in their midst.

Whites were particularly concerned about the negative moral impact which might arise from Africans having contact with white children. Girls, in particular, were thought to be extremely vulnerable to "kafir depravity" and ought to be spared any unnecessary contact with the "black savage". A correspondent to the Natal Mercury expressed the fears of all white mothers in the Colony of Natal: "Mothers here have need of all their vigilance and care lest the innocent minds of their daughters be

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<sup>116</sup>. Ibid.

<sup>117</sup>. NM, 9 Jan 1863.

<sup>118</sup>. Ibid.

<sup>119</sup>. Ibid.

daily shocked by unholy words and disgusting sights; ... ladies lately arrived in the colony should keep their children - particularly the girls - as much as possible away from the Kafirs, who are, without exception, most thoroughly sensual and indecent." (<sup>120</sup>) It was argued that, owing to the "very imperfect state of domestic arrangements", parents (especially mothers) were unable to devote their thoughts, time and attention to their children, who were consequently, in the majority of cases, left to "the tender mercies of the ignorant and depraved Kafir." (<sup>121</sup>) White servants were considered to be far too expensive. In addition, it was considered to be a well-known fact that the minds of young girls frequently became corrupted on board the vessels which carried them to Natal: "Idleness and other evils there become a snare to them, and they forget the station of life to which it has pleased God to call them." (<sup>122</sup>) Thus, on landing and settling in Natal, their ideas of servitude had been completely changed. It was hoped that in the near future the white youth of Natal would be raised by "conscientious and single-minded young women" (either their mothers or white servants), "and thus by early judicious training, the children of Natal will eventually prove blessings to their country." (<sup>123</sup>) Such an up-bringing, free from the corruptive influence of the "kafir", would allegedly make the education of these children easier for both teacher and pupil. The parents of white children undoubtedly injected negative feelings towards black people into the minds and hearts of their children, thus ensuring that their own racist feelings towards Africans and Indians would be perpetuated through the medium of future generations.

Africans who were apprehended on the charge of committing an outrage against a white woman or girl could not expect any mercy from the law courts. An African charged with the crime of rape on a respectable girl aged eleven (<sup>124</sup>) was found guilty of assault with intent and was sentenced to seven years' hard labour and 120 lashes. (<sup>125</sup>) 40 lashes were to be inflicted immediately, a further 40 on recovery from the first, and the final 40 on recovery from the second. The Natal Mercury, indicative of white opinion generally, praised the sentence as being "not a bit too severe" and expressed the hope that such sentences would deter the committal of similar offences. (<sup>126</sup>) It also rebuked the jury and the Attorney-General for attaching too little weight to the testimony of the District Surgeon.

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<sup>120</sup>. NM, 31 Oct. 1865.

<sup>121</sup>. NM, 28 Oct. 1865.

<sup>122</sup>. Ibid.

<sup>123</sup>. Ibid.

<sup>124</sup>. Whites frequently emphasised the respectability of the victim in order to stress her blamelessness and to draw attention to the dastardliness of the deed.

<sup>125</sup>. NM, 23 Jan. 1863.

<sup>126</sup>. Ibid.

"Kafir Outrages" became a constant feature of colonial society in Natal. The press, administrators and residents called for the most stringent measures of repression. In a hard-hitting editorial, the Natal Mercury argued that the degree of domestic insecurity caused by these outrages was surpassed in few other countries. <sup>(127)</sup> It appealed to the "honorable sensibilities" of every (white) man in Natal to employ every means of prevention and to make every effort to secure the punishment of offenders. <sup>(128)</sup> Such an appeal, an appeal to the moral fibre and sense of manliness of the Victorian male, was likely to provoke the sternest of reactions among the colony's white fathers. The Natal Mercury feared for the future of the colony if such outrages were allowed to continue: "In a thinly populated country where so many opportunities to the evil-disposed exist, we know of nothing more likely to destroy all domestic comfort, or more certain to tarnish the reputation of the colony as a home for immigrants. But we cannot for a moment entertain the supposition that these dark occurrences are to be a permanent feature in our social state. The animal propensities of the barbarians around us must be sternly and systematically stifled." <sup>(129)</sup> It called on the Executive to devise a punishment that was sufficiently exemplary and encouraged the various judicial tribunals to impose the heaviest penalties on offenders. It warned that in many other lands retribution for such offences was often swift and lethal - the Court of Lynch Law. Noting that the remedy was always regulated by the degree of the danger, it urged justice to "put on her most relentless mien." <sup>(130)</sup> An editorial such as this reveals quite clearly that white Natalians perceived the threat of "Kafir Outrages" in the most dangerous of terms and were prepared to take whatever action was necessary to protect the civilised norms of *their* society. The editorial is clearly provocative and irresponsible, even suggesting that lynch law might become an option, but it shows the kind of fears which all white people were beginning to harbour.

The Natal Mercury lambasted the judicial system for failing to protect innocent women and children. It cited a case in which a Hottentot was arrested for allegedly attacking a white women in Commercial Road in Maritzburg, but was later released because the woman could not make a positive identification of the suspect. The man had been arrested in a hedge where she had said he was hiding, but in the confusion of the attack she had been unable to obtain a good look at his face. The Natal Mercury argued that, and most white colonists would have agreed, the suspicious circumstances under which the suspect had been found, ought to have been sufficient circumstantially to convict him. If something was not done to protect

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<sup>127</sup> . NM, 20 Feb. 1863.

<sup>128</sup> . Ibid.

<sup>129</sup> . Ibid.

<sup>130</sup> . Ibid.

white women from such attacks, women would be forced to arm themselves with a revolver or stiletto. It called on the Executive to revise the laws in order to secure the protection of white women and girls. <sup>(131)</sup>

The Natal Mercury also demanded that some police arrangements be made for a more vigilant watch in the evening in Maritzburg, particularly on the outskirts of the town. A reporter, who had been living in the town for the past twelve months, claimed that he had never seen a policeman, white or black, near his place of abode. While it was true that the police patrolled the main streets constantly, he did not believe that the outskirts were watched at all. He suggested that the Mounted Police be used to patrol the town each evening from sunset to eleven o'clock. <sup>(132)</sup>

Despite the growing anger and anxiety of whites on the question of "kafir outrages", the criminal statistics suggest that criminal assaults did not pose a serious threat to the white women of colonial Natal during the early 1860s. In 1865 the Superintendent of Police for Durban reported the occurrence of the following criminal assaults during the previous two years:-

year ending 31 July 1864	White	1	
	Indian	5	
	African	1	
year ending 31 July 1865	White	1	
	Indian	0	
	African	1	<sup>(133)</sup>

The obvious weakness of such statistics is that they do not reflect assaults which were never reported, nor do they reflect cases in which the attacker was not tracked down. In addition, indecent assaults and attempted rapes do not fall within the scope of the above statistics. Statistics such as these, however, could be used by the authorities to justify the effectiveness of their policies and to prove that the 'problem' was not nearly as serious as the colonial press was alleging.

From 1866, however, the number of "kafir outrages" committed against white women and girls increased dramatically. The colonial press is absolutely littered with such cases, many of which come under the category of attempted assaults and rapes. The assailants often appeared to be foiled in their designs by the timely intervention of passers-by or the spirited retaliation of the victim. A young married woman living on the Berea was allegedly attacked four times in a single day by an African

<sup>131</sup>. NM, 3 July 1863.

<sup>132</sup>. NM, 7 July 1863.

<sup>133</sup>. MM, Dbn, 1864-5.

engaged to work in the garden. <sup>(134)</sup> Another woman was apparently saved by the assistance of her dog, which "seized the Kafir in the fleshy parts behind", forcing him to flee screaming into the bush. <sup>(135)</sup> The apparent bizarre nature of some of these cases did not decrease their seriousness in the eyes of Natal's white colonists.

Society demanded that Africans convicted of sexual offences against white women be dealt with in the severest manner in order to discourage the perpetration of further crimes of this nature. An African called Jacob, who pleaded guilty to a charge of indecent assault, was imprisoned for three months with hard labour, and received 12 lashes on entering gaol and a further 12 on his departure. <sup>(136)</sup> An African by the name of Umhlabi, charged with assault with intent to commit a rape on the wife of an Englishman residing near the Umbilo River, was sent to gaol for five years with hard labour and received 100 lashes. <sup>(137)</sup> In the majority of cases, however, the alleged assailants were never apprehended, serving to increase the anger, fear and frustration of the white population.

Publications such as the Natal Mercury reported cases of outrage extensively and headlines such as "Another Kafir Outrage" undoubtedly fueled all the worst feelings of white colonists towards their black brethren. In a lengthy editorial written in 1866, the Natal Mercury outlined the nature of the problem and proposed some solutions to what was fast becoming an 'evil' of epidemic proportions. It noted that "Durban suffers from periodical outbreaks of ruffianism on the part of its native population." <sup>(138)</sup> These outrages had first become a "localised expression" about twelve years previously (*circa* 1854) when a series of the "grossest" outrages had been committed against white females and children. <sup>(139)</sup> These attacks had aroused a "strong and vehement sense of popular indignation", leading to the establishment of a mutual defense association for the protection of local white residents. <sup>(140)</sup> Heavy punishments handed down by the courts had apparently helped to check these crimes and had dissuaded irate residents from taking the law into their own hands. These outrages seldom occurred singly, but usually in groups, several in succession. The previous cycle before 1866 had been prior to the hanging of the notorious Sixpence, whose death had apparently had an exemplary effect on "the native mind". <sup>(141)</sup> The year 1866, however, appeared to mark the beginning of another cycle with "scarcely a day pass[ing] without some revolting incident taking

<sup>134</sup> . NM, 1 May 1866.

<sup>135</sup> . NM, 5 May 1866.

<sup>136</sup> . NM, 22 Feb. 1866.

<sup>137</sup> . NM, 28 April 1866.

<sup>138</sup> . NM, 5 May 1866.

<sup>139</sup> . Ibid.

<sup>140</sup> . Ibid.

<sup>141</sup> . Ibid.

place." (<sup>142</sup>) Happily, however, "all" these attacks had been foiled by "accidental circumstances, or by the heroic conduct and valorous resistance of the persons attacked." (<sup>143</sup>) They were, nevertheless, cause for grave concern. It was believed that opportunities for assaults of this kind were afforded by the scattered situations of so many suburban residences. A large proportion of the burgesses of all classes lived on the Berea where their cottages were generally some distance apart from each other, on their own distinct and extensive plots of land. Thus many women were left unprotected at home during the day while their husbands were at work in the town. There were also many secluded bushpaths leading into the suburbs, which females often had to traverse without escort. (<sup>144</sup>)

According to the Natal Mercury, Africans had taken advantage of these peculiar circumstances to perpetrate the most daring and violent crimes. Security for the person and property was the prime purpose of the law, but the law was failing to give white Natalians any guarantees of their personal safety. Felonious assaults on women had in all ages and countries been regarded as the most heinous type of offence, taking rank often with murder. But in relatively uncivilised countries such as Natal, "where opportunities are so common, and where the unbridled passions of a savage people have to be encountered", such crimes were considered to be doubly serious. (<sup>145</sup>) The fact that these assaults so often occurred together, appeared to indicate "the existence of a sort of moral contagion" which the judicial authorities needed to counteract. (<sup>146</sup>) The Natal Mercury joined all white colonists in Natal in calling emphatically and unreservedly for this crime to be punished with the most severe penalties. It believed that technical difficulties with the law should not be allowed to obstruct the course of stern and severe justice; if the letter of the law imposed impediments which allowed the guilty to go free, then the law should be altered accordingly.

Many colonists wrote to the local newspapers expressing their opinions on the subject of "kafir" outrages. Indeed, no other subject in the history of the colony aroused such angry emotions as the perceived threat of African sexual aggression towards white females. A correspondent to the Natal Mercury regarded the frequency of these assaults as both disgraceful and contemptible since the men of Natal were incapable of protecting their own womenfolk. (<sup>147</sup>) He alleged that these attacks were even more common than was reported as some families were reluctant

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<sup>142</sup>. Ibid.

<sup>143</sup>. Ibid.

<sup>144</sup>. Ibid.

<sup>145</sup>. Ibid.

<sup>146</sup>. Ibid.

<sup>147</sup>. NM, 15 May 1866.

to publicise their misfortunes. He blamed white Natalians for creating a rod for their own backs by treating African sexual offenders too leniently. During ten years of residence among the Dutch Boers of Northern Natal, he could not recall a single case of insult by Africans towards white women. On the contrary, he always saw Africans treat white women with the greatest respect. He commended both the Dutch and the Portuguese for their handling of Africans; both had gained the respect of the African by instilling a submissive fear into him. In his opinion, this was what was lacking in Durban: "The Kafir knows and fears nothing but power, in one form or another, that he worships sincerely, and if what you call 'stern and severe justice', were swiftly and invariably dealt out to the Kafirs for such offences, they would soon be rare occurrences." (148) He considered that with such a race as the Africans, extreme and uncompromising severity was the most merciful because it served to extinguish the crime as quickly as possible.

Another correspondent, H.E. Stainbank, believed that the crime could be prevented by making the detection of the crime easier. (149) He called for the obligatory registration of all Africans; each African would have to possess a register ticket, having on it a number, and the man's name and description. Any African who failed to register would be liable to punishment in the same way as Indians who were found without a pass were. The tickets of Africans working by the month would be lodged with their master; the tickets of day-labourers would be lodged with the Resident Magistrate, receiving a license renewable periodically. The Resident Magistrate would keep a book reflecting the number of tickets and the names of employers of Africans. Stainbank claimed that it was well known that certain crimes committed by Africans occurred in groups at recurrent times and that Africans generally came out from their districts in batches. He argued that the police might, by comparing dates in the magistrate's book, find that on the recurrence of certain crimes, similar numbers (of the register tickets) showed the presence of the same Africans in the same neighbourhood at the time. Such a system of registration would, in his opinion, have many other advantages such as the comparative security it would give to labour engagements. In the words of Stainbank, "the only expense incurred would be the outlay for register books and tickets, and no great inconvenience would be entailed upon any one." (150) Like the majority of white colonists, Stainbank failed to consider the interests and feelings of the African population on this matter, merely presuming that the remedy proposed by the white man would be convenient for both white masters and African servants.

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<sup>148</sup>. Ibid.

<sup>149</sup>. Ibid.

<sup>150</sup>. Ibid.

A further correspondent expressed a different opinion to the Natal Mercury and Stainbank as to how "kafir" outrages could be alleviated: "I am certain it is not courts, legislative acts, or registration, & c., that will prevent their occurrence, but a different social system and individual treatment, to that which at present subsists too generally between the Kafir and the European, more particularly on the coast." <sup>(151)</sup> He claimed that the English brought with them to Natal "the kindly sympathies which have been instilled into them for the 'poor dear Kafir', shedding almost a poetical halo around these savages." <sup>(152)</sup> On their arrival here, they tended to court familiarity with local Africans with disastrous results: "it is received at first with some little wonder, but soon, losing that awe and respect that is innate with the coloured races to those of the white, show their barbarous familiarities in exchange, and not having been taught the fine line of distinction and propriety, offend." <sup>(153)</sup> It was not surprising to him that "the gross nature of the Kafir will overstep its bounds" especially when so many white women and girls allowed such "opportunity and privilege", playing and joking with blacks, allowing themselves to be seen in an undress and their rooms to be entered at times "whilst the bare idea of such a thing with their own country-men would cause deep blushes." <sup>(154)</sup> Women who allowed such circumstances to develop were not only placing themselves in grave danger, but were also compromising the safety of their fellow white women in Natal: "for as a Kafir's experience is limited, and his judgement untrained, he will naturally consider all others are as indelicate, and will act as he has been taught and permitted by such thoughtless ones." <sup>(155)</sup> His conclusions would have been shared by an overwhelming majority of local whites: "I hold most strongly that such presumptuous and daring acts would seldom or never have been perpetrated had the right and proper distance and respect been maintained between the natives and our countrymen and women." <sup>(156)</sup>

Between 1866 and 1870 scarcely a day passed without some outrage or indecent assault being reported in the colonial press. The Natal Mercury kept its readers well-informed on the latest developments and identified itself closely with all the passions and frustrations experienced by the white colonists. Almost inevitably, the judicial system felt the pressures operating in such an emotionally charged atmosphere and the sentences imposed on Africans found guilty of committing outrages on white women and girls often reflected these pressures. The following case illustrates this point quite clearly: An African called Cakainhlu was brought

<sup>151</sup> . NM, 2 June 1866.

<sup>152</sup> . Ibid.

<sup>153</sup> . Ibid.

<sup>154</sup> . Ibid.

<sup>155</sup> . Ibid.

<sup>156</sup> . Ibid.

before the Circuit Court on 13 February 1867 charged on two separate indictments, one of which contained three distinct counts. <sup>(157)</sup> In the first of these counts, he was charged with having on 15 December 1866 broken into the house of a woman in Durban with attempt to commit a rape on her; the second with housebreaking with intent to steal; and the third with housebreaking with the intent of committing some unknown crime. In the separate indictment the prisoner was simply charged with theft. The prisoner pleaded not guilty. According to a report in the Natal Mercury, the incident had occurred as follows:

"[The prosecutrix had been awoken] from her sleep by finding a heavy weight on her feet. She arose to endeavour to find out who or what was there. She then found the window open and broken, and the person or thing that had been in the room gone. She called in the assistance of her neighbours' kafir, named Ughalani, and got him to remain with her in case the attempt was repeated; a man got into the house again, and that time the prosecutrix saw a man escaping through the window. She could not see him distinctly, but the kafir who was in the house distinctly recognised him. Further search was made for him, and outside of the door a hat, stick, and blanket were found. They were subsequently claimed by the prisoner as his property, and thus it was that proof would be given of his breaking into the house that night."  
(<sup>158</sup>)

The prisoner admitted that he had entered the house, but claimed in mitigation that he was drunk at the time. The points urged for the defence were that there was no proof of intention to commit rape or theft, and that the evidence as to the identity of the prisoner was not sufficient to warrant the jury in convicting the man. Mr. Henry Cope, the Acting Attorney-General, argued that the evidence was sufficiently strong to prove that the prisoner had burglariously entered the woman's house with one or other of the unlawful intents alleged against him. The jury consulted together for a considerable time and finally found the prisoner guilty of housebreaking with intent to commit rape. The man was sentenced to three years' imprisonment with hard labour and to receive 25 lashes on entering prison and a further 25 on leaving. Justice Phillips, in passing sentence, reportedly said that "he was determined to put down this crime among kafirs, and if he could not do it by the lash, he would feel it his duty to send future offenders to execution." <sup>(159)</sup> Both jury and judge had clearly been influenced by the prevailing atmosphere in the colony. The all-white jury, responding to the pressures of white colonial opinion, convicted the African on the basis of circumstantial evidence. There was no evidence to suggest that the man had any intention to commit a rape. Judge Phillips, in passing a relatively lenient

<sup>157</sup>. NM, 19 Feb. 1867.

<sup>158</sup>. Ibid.

<sup>159</sup>. Ibid.

sentence, perhaps recognised the circumstantial nature of the evidence, but nevertheless felt obliged to impose a punishment which would serve as a deterrent to aspiring African burglars and rapists. The Natal Mercury welcomed the sentence, warning its readers that "Nothing but the sternest administration of the law will suffice to check a crime which strikes at the root of all domestic happiness and comfort." <sup>(160)</sup>

In the overwhelming majority of cases, no rape or indecent assault was actually carried out, but the mere threat of a sexual attack by an African man on a white woman was enough to keep the white population in a state of panic. The majority of attacks failed either because of the intervention of passers-by, or because of the spirited resistance of the woman under attack. The following account represents a typical case of "kafir outrage":

"On Thursday morning one of the employees on the Berea-road as usual started from home before daylight for his work, leaving his wife and family in bed. Shortly afterwards the wife was disturbed by a Kafir taking his place by her side, but fortunately the alarm raised by her and the children frightened the ruffian, who fled. We regret to say he got clear off without, it is feared, being identified, the only clue being that he wore an old coat." <sup>(161)</sup>

During rape scare periods the women of Natal felt unsafe no matter where they were; assaults appeared to be perpetrated both in their homes and outdoors on the many foot-paths surrounding the town. The Berea bush was considered to be a particularly dangerous area for women without male escorts. Tales such as the following would have made any woman think twice about entering the Berea bush unattended: "On Saturday last in the day time, a kafir, name unknown, attempted to commit a diabolical outrage on a young lady [aged 12 years] on the Berea. The lady was walking along one of the paths unattended by any protector, when the kafir darted out of the bush, bedaubed her face with dirt, put his hand on her mouth to prevent her from shouting, and endeavoured to assault her. Fortunately, however, he did not succeed, for despite all his efforts the young lady screamed with all her might. The kafir at length became afraid and ran away. The young lady went into a house on the Berea and got assistance. This is an incident which ought to satisfy parents that it is not advisable for them to let their daughters travel alone outside of the town or even near the Berea bush." <sup>(162)</sup> An African called Usihluti was subsequently brought before the Durban Circuit Court charged with having committed the above crime. He was found guilty by the jury by a unanimous verdict

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<sup>160</sup>. Ibid.

<sup>161</sup>. NM, 30 June 1866.

<sup>162</sup>. NM, 4 June 1867.

of the crime of assault with intent to commit a rape and was sentenced to five years' hard labour and 100 lashes. <sup>(163)</sup>

African prostitutes appeared to lower the moral tone of the African population still further. While the subject of prostitution - black or white - was generally regarded as taboo by the white colonists, it did begin to find its way into the colonial press from the mid-1860s onwards. One of the earliest reports of "native women of bad repute" appeared in the Natal Mercury in March 1867. <sup>(164)</sup> The inhabitants of the East End of West street were reported to be greatly annoyed by a scene which they witnessed in their neighbourhood: "A Kafir, almost totally naked, and in a state of mad inebriety, was causing a great disturbance near Union Street by shouting and cursing in his native tongue. He had come out of some house in that neighbourhood inhabited by native women of bad repute." <sup>(165)</sup> Local white residents had apparently complained about the "terrible nuisances" these houses and their occupants constituted to the area, but the municipal authorities had not taken any steps to demolish or purge these alleged houses of ill-fame. It had taken the earnest attentions of two policemen and six Indian prisoners to drag the man to the police station. The fact that this incident took place on a Sunday, the sacred day of Our Lord, merely served to exacerbate the perception of whites that Africans were a bunch of depraved and uncivilised heathens.

Cases of prostitution were followed by the arrival of the inevitable social diseases, syphilis, gonorrhoea and venereal disease in particular. 1869 is the first year for which "Hospitals and Lunatic Asylum Returns" were published. Grey's Hospital in Pietermaritzburg reported 182 inmates during 1869, of which 15 were cases of syphilis. <sup>(166)</sup> The Durban Hospital reported 21 cases of venereal disease out of a total of 221 inmates during the year. <sup>(167)</sup> While these statistics do not reveal the total extent of these diseases, they do suggest that social diseases (8.9% of all the cases treated at Durban and Grey's Hospitals during 1869) did not constitute a serious problem during the period up to 1870. In the following decades, however, as Natal's population increased, they blossomed into a social and medical problem of serious proportions. <sup>(168)</sup>

Although their Victorian instincts suggested otherwise, white Natalians were also involved in the social problems of prostitution and the dreaded social diseases.

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<sup>163</sup>. NM, 15 Oct. 1867.

<sup>164</sup>. NM, 26 March 1867.

<sup>165</sup>. Ibid.

<sup>166</sup>. NBB, Vol. 1, 1869.

<sup>167</sup>. Ibid.

<sup>168</sup>. See appendices.

Even though, at first glance, it would appear that the Victorians theorized and practised the very highest standards of moral conduct, in reality they often fell far short of this. Because they set standards which were too high for human nature, they were frequently guilty of moral pretension: "As men were required to support Christianity by church attendance and active charity, and to accept the moral ideals of earnestness, enthusiasm, and sexual purity, the gap between profession and practice, or between profession and the genuine character, widened to an unusual extent." <sup>(169)</sup> To a large extent, Victorian morality was a convenient myth, a facade which guarded the reality which could only be seen behind closed doors. White Natalians did not consider it proper, however, to admit to such weaknesses and preferred instead to focus on instances of African and Indian immorality. Part of the motivation behind this paranoiac cover-up operation was the white man's fear that, if white immorality was revealed, the African would lose the innate respect which he felt towards his white master. It was important that the teacher be seen to be perfect. For this reason, it could be argued that the moral maxim of Natal's white population became "Do as I tell you, not as I do."

The occasional case of bestiality also reinforced the colonial perception of the African as being thoroughly barbaric and amoral. In one such case, an African was sentenced to death by hanging, but his sentence was later commuted to five years' hard labour and 40 lashes. <sup>(170)</sup> The crime of sodomy also appeared to be the preserve of Africans and suggested the sometimes deviant nature of the African sexual appetite. The courts dealt harshly with such cases; Hogoza was sentenced to death for this crime, but the sentence was later commuted to imprisonment with hard labour for five years. <sup>(171)</sup>

During periods of "kafir outrage" numerous letters were written to the colonial press expressing the feelings of the local white colonists on the question of how these outrages could best be stamped out. These letters indicate that 'white' Natal became locked into a scenario of moral panic in which emotions rather than logic were the order of the day. Husbands and fathers, understandably, were infuriated by the attacks on their womenfolk and were prepared to take whatever action was necessary to guarantee the safety of their loved ones. Their remedies usually included violent reprisals in order to extinguish the "kafir beast". Radical solutions were proposed to terminate a problem which appeared to strike at the very roots of white civic life:

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<sup>169</sup>. W.E. Houghton, *op. cit.*, pp. 404-5.

<sup>170</sup>. *NM*, 21 Dec. 1867 & 14 Jan. 1868.

<sup>171</sup>. *NM*, 16 June 1868.

The time has come when a formidable association of the male members of the European population must be formed, and a secretary and committee named who shall receive information of all such attempts, and with a well paid staff of spies and executioners, eradicate this nuisance by carrying out a sure punishment; and where minor attempts only have been made, ousting such from any employment in our towns, and, if necessary, branding him with a plain mark to indicate the brute's character, so that any family he may seek to enter for the future may know the man. <sup>(172)</sup>

The above letter is instructive, not only in revealing the seriousness with which the colonists viewed the problem, but also in showing how the colonial mind operated. Africans were perceived as nuisances or pests which needed to be eradicated because they posed a serious threat to the stability and tranquility of settler society. The reference to "our towns" clearly indicates that the towns, Durban and Pietermaritzburg in particular, were regarded as preserves of the white man, a place where the black man was merely tolerated for his labour power, but was not welcome to reside. This attitude, whereby Africans are permitted to be visible by day, but are required to be invisible by night, has persisted right down to the very recent past. The reference to "a sure punishment" suggests that the white colonists were not always satisfied by the decisions which were handed down by the courts. Whites often clamoured for judges to convict on the basis of circumstantial evidence only and demanded sentences which would serve to deter prospective African rapists. When their demands were not met, they frequently resorted to threats of lynch law and to exacting suitable punishments of their own. The call for branding is also instructive; it reveals a barbarity on the part of some white settlers every bit as great as 'that' of their African brethren whom they were attempting to discipline.

In February 1868 a meeting was held in the Berea schoolroom in order to form an association and to elect a committee for the purpose of initiating measures for the suppression of "kafir outrages". <sup>(173)</sup> As a first step, it was decided to meet with the Mayor, with a view to making a strong representation to the Natal Government, probably in the form of a memorial from the inhabitants of the borough and its vicinity demanding that the Governor take remedial action immediately.

Editorials in the Natal Mercury kept residents up to date with the latest happenings on the "kafir outrage" front and gave wide-ranging advice on the subject to colonists,

<sup>172</sup>. NM, 28 Dec. 1867. Associations for the prosecution of felons were apparently common throughout England. Members payed an annual subscription, met at least once a year, payed rewards for the arrest of criminals, and bound themselves not to compound any felony.

<sup>173</sup>. NM, 4 Feb. 1868.

the police, the courts, local government and the Government of Natal. While the press might have had sincere intentions, their extensive coverage of this phenomenon undoubtedly helped to heighten the degree of moral panic:

We are glad to observe that several perpetrators of kafir outrages have recently been convicted, and sentenced to severe sentences. Judges cannot be too severe in inflicting exemplary penalties in such cases. Our columns to-day record another glaring case, occurring, not in the country or a secluded neighbourhood, but in the town itself, and within easy earshot of other houses. So daring was this offence that one can hardly avoid a belief that the young miscreant must have been mad, but whether mad or not, we hope that his punishment will be of a deterrent character. We say emphatically that these crimes must be put down. If they are not repressed with a strong and unflinching hand, men will be afraid even in the midst of a populous neighbourhood to leave their houses unprotected and weapons of defence will have to be placed within reach of those who are menaced by these attempts. It is horrible that such a state of things should be suffered in a civilized community. Compared with the scant numbers of our population, the frequency of assaults on females is unheard of. Surely the arm of justice is not so powerless that it can exercise no restrictive influence. If our police force is inadequate it must be increased. No consideration of expense should stand in the way of the public requirements in such a case. With what show of consistency can we ask people to come to our shores while such deeds are rife. We do assure our governmental and civic authorities that this is a matter regarding which the public demand something more than official cognisance. The colonists require, and they must have, strong, immediate, and effective action. It would be well if the Town Council, representing as it does the townspeople locally, were to give this subject its attention. <sup>(174)</sup>

The Natal Mercury also brought forward a few practical suggestions as to how these outrages should be punished. <sup>(175)</sup> It encouraged employers to record not only the name of a servant, but also that of his chief, and his place of residence. The formal registration of African workers before the magistrate would be a further and very effectual precaution, but as yet no law existed for implementing such a system. With these facts at their disposal, the authorities, it was claimed, "would experience little difficulty in laying their hands on any absconding miscreant." <sup>(176)</sup> It was also hoped that the mere knowledge on an African's part that his master was in possession of these facts would in itself be some sort of guarantee for his good conduct. Another suggestion made was that in addition to the personal punishment of offenders, the

<sup>174</sup>. NM, 25 Feb. 1868.

<sup>175</sup>. NM, 13 March 1868.

<sup>176</sup>. Ibid.

principle of tribal responsibility should be called into action; the property of the family of the convict would be "eaten up" - partially or wholly confiscated. The Natal Mercury claimed that "no form of punishment is so deterrent as this to savage minds. This crime is in the main the product of a barbarous state of being, and is certainly of a barbarous character. It is but right, therefore, that it should be dealt with according to native law - to barbarian usage." (<sup>177</sup>) The Governor, as paramount chieftain, had the power to bring such a system into force and it was widely believed that "kafir" outrages could be more effectually repressed through the medium of the chiefs than by direct government intervention. The Natal Mercury saw:

neither impropriety nor inhumanity, nor any lack of civilisation, in dealing out like treatment to the wretches who have been proved guilty of the worst crime that a man can commit. We believe if such fellows were disgraced and disabled for life, if they were made to show to the eyes of all the badges of their infamy, that others would be deterred from incurring the risk of similar treatment. We therefore suggest that instead of or rather in addition to the mild whipping and light labour which now constitute the chief part of the law's penalty for such offenders, their ears be cut off, or their noses slit, or their cheeks branded with the letter B (for beast). (<sup>178</sup>)

Such hysterical rantings coming from one of the colony's most respected newspapers clearly reveal the extent to which Natal's white population considered themselves to be under siege from a race of people whom they perceived as being both highly dangerous and sexually promiscuous. During rape scare periods whites demanded the most stringent measures to counteract the "kafir menace" and in a situation charged with emotion, their demands, understandably, usually took the form of violent retribution and reprisals rather than any reasoned response to the nature of the problem. Victorian fathers, brimming with paternal protection for their wives and children, vowed to protect their families at any cost.

The overwhelming majority of "kafir outrages" was directed against white women and girls, Indian women appearing to escape the ravages of African sexual aggression. There were, however, a few isolated cases perpetrated against Indian women. A young married Indian woman was ravaged by four African men at the foot of the Berea, while her husband was pinned to the ground and held fast. (<sup>179</sup>) In March 1868 an Indian woman arrived at the Berea toll-gate claiming that she had been knocked down by an African man who had attempted to assault her. She was reported to be "in a fearless state, bleeding from the right eye and nose, which were

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<sup>177</sup>. Ibid.

<sup>178</sup>. NM, 3 March 1868.

<sup>179</sup>. NM, 10 April 1863.

much cut." <sup>(180)</sup> But such cases were few and far between and it was the whites, more than any other group, who came to regard Africans as the ultimate menace.

The Government of Natal certainly did not take the threat of "kafir outrage" as seriously as the local colonists. In 1868 the Colonial Secretary, D. Erskine, acting on the instructions of the Administrator of the Government, wrote a letter to the Durban Corporation enquiring whether statements of "kafir outrages" were founded on fact, and if so, requesting them to outline the causes of these assaults and any possible remedies. <sup>(181)</sup> The Natal Mercury criticized the Colonial Secretary for "the simplicity which dictated such a superfluous enquiry", but applauded him for his apparent desire to confront the problem. <sup>(182)</sup> In their opinion, the records of the local courts for some years past were a clear indication that the problem was a reality.

The response of the Durban Town Council came within a month in the form of a Report on Native Outrages which was forwarded to the government. <sup>(183)</sup> Firstly, it informed the Colonial Secretary that there was "but too much foundation for the statements as to those outrages." <sup>(184)</sup> The records of the Police Court showed such cases were by no means uncommon. In addition, the report alleged that it was "a matter of notoriety" that several cases occurred of which no official record was made. <sup>(185)</sup> The report could not throw any light on the causes of such assaults, but did make various suggestions for remedying the evil:-

- 1) The committee recommended that returns be made showing the number of complaints alleged, the number of apprehensions and the manner in which such cases were disposed of; whether an African, after having been once dismissed from such a charge, had ever been again charged with a similar offence, and with what result.
- 2) The report alleged that one cause of the occurrence of such offences was the law of polygamy which existed among the African population. They therefore regarded the discouragement of polygamy as being of vital importance.
- 3) A system of registration of African servants should be introduced.
- 4) They had little doubt that the fact of men and boys being employed as domestic servants, and so coming into a kind of intimacy with white women, tended greatly to cause these crimes. They believed, therefore, that the more

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<sup>180</sup> . NM, 13 March 1868.

<sup>181</sup> . NM, 26 March 1868.

<sup>182</sup> . NM, 28 March 1868.

<sup>183</sup> . NM, 23 April 1868.

<sup>184</sup> . Ibid.

<sup>185</sup> . Ibid.

general employment of African women as house servants would have a good effect.

- 5) African servants should be required to produce written certificates as to their character and the registration of all engagements should become compulsory.

Within a week the Government had published a return in the Gazette reflecting the number of convictions in the Supreme Court in cases of assault by Africans on white females during the past five years, embracing the Counties of Pietermaritzburg, Umvoti, Alfred, Durban, Victoria, Alexandra, Klipriver and Weenen, and the Division of Upper Umkomaas. <sup>(186)</sup> Their return, which indicates that only 17 convictions were obtained in the Supreme Court over the six year period, suggests that the problem of "kafir outrages" may have been more imaginary than real. However, it must be said that it was in the interests of the Government to play down the problem and to accuse colonists of over-reacting, since if the "social pest" was a reality, then it was in a sense the fault of the Government and their responsibility to rectify it.

The following table shows the number of convictions in the Supreme Court in cases of assault by Africans on white females during the period 1863-8:-

	<u>1863</u>	<u>1864</u>	<u>1865</u>	<u>1866</u>	<u>1867</u>	<u>1868</u>
Pietermaritzburg	2	1	2	0	0	2
Durban	2	1	2	2	1	2

TOTAL FOR THE SIX YEARS: 17. <sup>(187)</sup>

This table, which the Government produced to show that existing legislation on criminal assaults was sufficient and that the extent of these assaults had been exaggerated, was widely condemned by public and press. It seems that many cases were not reported because of the social stigma attached to rape, while often convictions were not obtained because of the difficulty of positively identifying the miscreants.

"Kafir outrages" are first mentioned in the debates of the Legislative Council in 1868 when a Captain Harford asked the Colonial Secretary whether the Government intended to take any special notice of the increase in "kafir outrages", more especially on white females. He referred to the "alarming prevalence" of such outrages and warned that the rule of lynch law would probably result unless prompt action was taken to extinguish the evil. Captain Harford made no bones about

<sup>186</sup>. NGG, 28 April 1868.

<sup>187</sup>. NGG, Gov. Notice No. 70, 25 April 1868.

where he stood on the matter: "while he would feel great compunction in firing on an English burglar, he would have none whatever in shooting a kafir who was breaking into his house, knowing full well the object he had in view." <sup>(188)</sup> The Colonial Secretary replied that at the close of the previous session, the Lieutenant-Governor had written to the Secretary of State asking whether the power of transporting criminals could be extended to the Colony of Natal. No reply had yet been received. In addition, a considerable body of additional police would be necessary in order to suppress this crime, and, as usual, the required funds could not be provided at the time.

Towards the end of the 1860s cases of indecent exposure also began to appear in the colonial press. These cases, however, were neither as frequent as "kafir outrages" nor were they perceived in such a serious light by local residents. For colonists who saw themselves under constant siege from African sexual assaults, the odd case of indecent exposure paled into insignificance. Sentencing for these crimes reflected their relative lack of importance; an African who exposed himself to a lady in a "most indecent manner" was sentenced to two months' imprisonment with hard labour and 25 lashes. <sup>(189)</sup>

Residents of the Berea complained to the Durban Corporation about the frequency of assaults by Africans on white females living in their area and called for the establishment of a police force on the Berea. The Council, while acknowledging that "these assaults are now really becoming so serious that special attention ought to be given to them", claimed that financial constraints prevented the establishment of such a force. <sup>(190)</sup> Certain residents suggested that each lady living on the Berea or the outskirts of the town should be provided with a small, neatly-made dagger, which she could hang by her side and use to ward off the amorous attacks of villainous African men. A pocket could be made in the dress to hold the dagger so that it might not be visible, nor inconvenient to carry in any way. <sup>(191)</sup>

A correspondent who wrote to the Durban Corporation argued that Berea residents received no benefit from the annual rates which they paid to the Corporation. <sup>(192)</sup> He suggested the establishment of a branch police station on the Berea, placed in a central position and staffed by one sergeant, four white and about eight African constables. He claimed that several people had made up their minds to leave the Berea in consequence of the feeling which existed there, that it was not safe for

<sup>188</sup>. LC, 23 June 1868. cited in NM, 27 June 1868.

<sup>189</sup>. NM, 14 Oct. 1869.

<sup>190</sup>. Ibid.

<sup>191</sup>. Ibid.

<sup>192</sup>. Ibid.

persons employed in town to leave their wives and families alone during the day, as they were not safe even in their own houses. Councillor Parker, in reply, admitted that there was a financial problem, but stated that the rates received from Berea residents were used to maintain the roads in that area. The Mayor himself did not see how the Council could do anything. Instead, he related a story which appeared to be his solution to the problem. A friend of his had taught his wife how to shoot and had provided her with a good revolver. The Mayor believed that this was "the best kind of protection to have about the place." <sup>(193)</sup>

Some white residents believed that alcohol was the root cause of many of the cases of indecent assault and exposure. They criticized the Durban Town Council for not enforcing the bye-laws with regard to the manufacture and sale of *isishimiyana*. The police were also condemned for failing to prevent Africans from shouting and congregating on the foot-paths and around African stores. The existing scenario was considered to be a serious affront to the dignity and safety of white women: "for now, very often, a female has to push herself through such gatherings as best she can, or turn off the path altogether, rather than inhale the smell and see the disgusting ragged state of their garments, with a chance of hearing their impertinent remarks." <sup>(194)</sup>

Sentencing for cases of indecent assault and exposure committed in the 1860s was generally severe and intended to act as a deterrent. As always, however, the severity of the punishment was dependent upon a number of factors such as the emotional state of the white community (which inevitably influenced the penalties imposed by magistrates), the seriousness of the offence, the presiding judge (some judges being stricter than others) and the criminal history of the miscreant. Cases of house-breaking with intent to commit a rape were deemed to be the most serious and Africans who committed such acts could expect all the terrors of the law to rain down upon them. For example, an African man called Macabiane, who was found guilty of house-breaking with intent to commit rape, was sentenced to 7 years' imprisonment with hard labour and a flogging of 75 lashes. <sup>(195)</sup> Another African by the name of Utyatya, who was found guilty on a charge of house-breaking with intent to commit a rape, and who possessed a previous conviction for rape, was sentenced to receive 100 lashes and to be imprisoned for the term of his natural life. <sup>(196)</sup> Very few whites appeared to be involved in cases of house-breaking with indecent intentions, but those who were convicted could expect relatively lenient treatment

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<sup>193</sup>. Ibid.

<sup>194</sup>. NM, 16 Oct. 1869.

<sup>195</sup>. NM, 25 Feb. 1868.

<sup>196</sup>. Ibid.

from the white courts; for example, David Dickson, a lance-corporal in the 20th. Regiment, was found guilty of house-breaking and indecent assault and was sentenced to two years' imprisonment with hard labour. <sup>(197)</sup>

Convictions for actually committing the crime of rape (as opposed to house-breaking or assault with the intent to commit a rape) were few and far between during the 1860s. In one such case, an Indian was sentenced to be imprisoned during the time of his natural life and to receive 100 lashes. <sup>(198)</sup> He was considered fortunate to escape with his life since even the presiding judge, Judge Phillips, had indicated that he ought to pass the sentence of death upon the prisoner. Another Indian, who was estimated to be at least 20 years old, was found guilty of raping a young Indian girl aged seven and was sentenced to death. <sup>(199)</sup> The Natal Mercury described the case as being "of most fearful depravity" and told its readers that the evidence given in the case was unfit for publication. <sup>(200)</sup> The man had apparently induced the girl, by promises of giving her clothes and other gifts, to abscond with him to the Umhlanga, where they had lived together for five days and he had inflicted serious injuries on her.

Minor cases of indecent assault received either a small fine, a flogging or a short period of imprisonment. For example, an Indian called Seronjum, who was convicted of an indecent assault, was sentenced to pay a fine of £1 or imprisonment for 14 days. <sup>(201)</sup> A young African was sent to gaol for 14 days and received 12 lashes for committing an indecent assault of "a most revolting character". <sup>(202)</sup> Another African by the name of Umhlehlana, charged with having indecently assaulted an African woman, was ordered to pay a fine of £1 or be imprisoned for 20 days. <sup>(203)</sup> Ukofi was sentenced to three months' and 25 lashes for having assaulted a young white lady with intent. <sup>(204)</sup> Coffee, a member of the Native Sunday School, was charged with having assaulted "a respectable young lady of this town" with intent to commit a rape on her. He had apparently been "frequently noticed" to pay impertinent attentions to the lady in question. On one occasion when she was sitting on the verandah of her father's house, he had passed her by and allegedly kissed his hand at her and beckoned her to come along with him. On another occasion he was reported to have said in her presence that if all the girls in Durban were collected together, he would like her the best of all and that she should like him. She had told him to

<sup>197</sup> . NM, 25 June 1868.

<sup>198</sup> . NM, 5 Nov. 1867.

<sup>199</sup> . NM, 18 April 1868.

<sup>200</sup> . Ibid.

<sup>201</sup> . NM, 22 Nov. 1866.

<sup>202</sup> . Ibid.

<sup>203</sup> . NM, 13 July 1867.

<sup>204</sup> . NM, 28 Nov. 1867.

*voirtzik*. One evening, while the young lady was on her way to the servants' quarters, Coffee had grabbed her around the waist and endeavoured to drag her away. She had screamed, prompting him to run away. In certain instances, sentences were much harsher; an old offender charged with indecently exposing his person in the streets was sentenced to five years' imprisonment with hard labour and spare diet every second month. <sup>(205)</sup>

Any assault by an African man on a white woman was likely to be construed as a criminal assault with the intention of committing a rape. An attack by an African man on an African woman, however, had much more chance of being defined by the courts as merely a common assault. The following case illustrates this situation most clearly. <sup>(206)</sup> Mahlahluwane was charged with having assaulted an African girl called Umbeazane with intent. While on the way to a neighbour's house, she and a girl friend by the name of Patigili were met by the prisoner, who went up to them and commenced a conversation. He allegedly asked the two girls which of them would choose him, but as neither seemed inclined to do so, and after the other girl had run away, he caught hold of the prosecutrix, threw her down and attempted to commit the offence on her. When the victim screamed and called out, her friend returned and the prisoner fled. The girl had seen the prisoner on a previous occasion and swore positively that he was the man who had assaulted her. When the case was tried, the girl's argument was effectively undermined by the white employer of the prisoner and the Clerk of the Peace, another white man. Mr. Button, the manager of the butchery where the prisoner was employed, stated that the man had been in his employ from the time he was a little boy to the time he was arrested. The man had always borne a good character and he had never known him to do anything wrong. The Clerk of the Peace then addressed the jury and did not press the charge of *intent* against the prisoner, contending instead that he should be found guilty of a common assault. Mr. Roberts, the defence attorney, argued that the indictment was "ridiculous altogether" since there was not the least proof of intent on the part of the prisoner. <sup>(207)</sup> The jury, after a very short consultation and without leaving the box, found the prisoner guilty of a common assault. He was sentenced to three months' hard labour and 30 lashes. In a similar case, an African man called Umgunsi, charged with having committed a rape on an African girl sixteen years of age, was found guilty of a common assault and was sentenced to two months' imprisonment and 20 lashes. <sup>(208)</sup> The evidence was allegedly not conclusive enough to prove the commission of the capital offence.

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<sup>205</sup>. NM, 26 Nov. 1867.

<sup>206</sup>. NM, 14 Dec. 1867.

<sup>207</sup>. Ibid.

<sup>208</sup>. NM, 28 Jan. 1869.

There can be little doubt that women like Umbeazane were victims of their own black skins. If she had been a white woman, the charge of assault *with criminal intent* would most probably have been carried. But African women were not accorded the same status by white male officials as their own Victorian women, and a black woman who was criminally assaulted was more likely to be seen as 'getting her just deserts', just as low class white women received little sympathy from the bastions of Victorian morality. To the same extent, African men who were convicted for committing or attempting to commit criminal assaults on white women were also victimised by the white dominated legal mechanism. White settler society accepted the fact that white men sometimes erred in their ways and committed criminal assaults. Such men were regarded as the 'trash' of white society and society expected them to be harshly dealt with. But the amount of African 'trash' appeared to be more pervasive and was perceived by whites as actually threatening the structure of *their* society. Many whites believed that sexual aggression and licentiousness were inherent in the African character and therefore posed a massive threat to white peace and security. White immorality, on the other hand, was considered to be quite unnatural, the result of the defective character of that individual, and a relatively minor problem confined to the lower ranks of society.

As the threat posed by the "kafir social pest" appeared to increase as the decade wore on, so the severity of the sentences imposed by the colonial courts also increased. The case of Umbemi provides a useful illustration of this trend. Umbemi was charged with having broken into the house of Roland Ridgway with intent to commit a rape. In a second count he was charged with house-breaking with intent to steal and in a third count he was charged with house-breaking with unlawful intent. The prisoner was described as "a notorious thief and burglar". <sup>(209)</sup> He carried the following criminal record:-

15 March 1865 - indecent assault on a white female near Cato's mill; three months' hard labour and 25 lashes, then to pay a fine of £10 or be imprisoned for a further period of three months with hard labour.

10 August 1866 - house-breaking with intent to steal, and theft; six months' hard labour and 12 lashes.

18 March 1867 - theft; two months' hard labour and 25 lashes.

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<sup>209</sup>. NM, 28 March 1868.

1 June 1867 - entering a house with intent to steal; two months' hard labour and 20 lashes.

20 August 1867 - housebreaking and theft; three months' hard labour and 25 lashes. (210)

The prisoner had entered the Ridgway's house in the middle of the night through a window which led into Mrs. Ridgway's bedroom. The moment he had jumped into the room, the woman's husband had pounced on him and captured him, administering "a little relish in the way of 'Lynch Law'." (211) The prisoner had been naked with the exception of a belt around his waist. Umbemi instructed Mr. Roberts to defend him, but according to the Natal Mercury, "the case seemed too clear against him to admit the possibility of his escaping punishment." (212) Umbemi pleaded guilty to having entered the house, but claimed that he only went there to sleep. He denied having had any wicked intent. The prisoner was reported to be "a very bad fellow, and had been imprisoned several times for crimes of a more or less serious nature, amongst which such as this seemed favourites." (213) The jury found the prisoner, who was undefended, guilty and he was sentenced to be imprisoned for the term of his natural life and to receive 150 lashes. The verdict of the jury was not unanimous.

The judge, Justice Millar, remarked that he had seriously considered passing the death sentence and promised the prisoner that he would impose such a sentence if he ever came before him again on a similar charge. (214) He said that he had no doubt that the next session of the Legislative Council would pass legislation to punish offenders of this nature. He expressed himself in favour of summary justice so that he could "make an example which would soon put an end to such crimes." (215) While it is true that Umbemi did have a criminal record which appeared to include sexual crimes, life imprisonment for the crime of house-breaking with intent to commit a rape must be regarded as an extremely severe penalty, especially in the light of the fact that the jury was not unanimous in its decision.

A number of severe sentences was handed down for this class of crime towards the end of the 1860s. Umbikana, charged with having assaulted a respectable married lady living at the West End with intent to murder her or with intent to commit a rape

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210. NM, 31 March 1868.

211. NM, 28 March 1868.

212. Ibid.

213. NM, 15 April 1868.

214. Ibid.

215. NM, 28 March 1868.

on her, was found guilty on the latter charge and was sentenced to seven years' hard labour and 61 lashes. <sup>(216)</sup> The assailant, a boy of about 15 years of age, had allegedly attacked the woman with a knife. The doctor had found the lady to be suffering from "nervous exhaustion, shock, an incised wound on one finger, and she was scratched about the face." <sup>(217)</sup> The boy appears to have been convicted on circumstantial evidence alone; there is no evidence to suggest that he ever contemplated committing rape on the woman. Instead, a conviction for common assault would have been more appropriate and a greater credit to Natal's judicial system. The judge himself had remarked during a preliminary hearing that, "looking at the boy it seemed most incredible that he could have been guilty of such a crime." <sup>(218)</sup> He considered it to be the most extraordinary case he had ever known. There was also evidence to suggest that the boy may have been mentally unstable since he reportedly 'downed' a bottle of laudanum after attacking the woman. But this aspect of the case was never investigated.

In another case of this description, Magwangana, a Basuto, was charged with having assaulted Anne Smith of Pinetown with intent to commit a rape on her. While the woman's husband was out shooting, the prisoner had climbed onto her bed, put his knee on her and threatened to stab her if she did not remain quiet. He had a clasp knife attached to his belt. The prisoner appeared to be frightened by a noise outside the house and after a struggle, he had escaped from the house. He admitted that he had assaulted the woman, but claimed that it was unpremeditated and that he was intoxicated at the time, having smoked a noxious weed. The jury found the prisoner guilty. Justice Cope, in passing sentence, gave the usual stern warning from the bench: "the court was determined to put down by all means in their power, crimes of this description. In all these cases he should certainly make an example for the rest of society. If prisoner had accomplished his object in this case he would no doubt, suffer death, a punishment which he would fully deserve." <sup>(219)</sup> Magwangana was sentenced to five years' hard labour and 100 lashes.

Macabiane was charged with having broken into the house of a widow living on the Berea with intent to commit a rape on her. In a second count he was charged with having broken into the house with unlawful intent. On the night in question the woman had been awoken by feeling a pressure on her throat. She had found an African lying on her bed with one hand on her throat to prevent her from crying out. She did, however, manage a call for help which had brought her brother-in-law, a

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<sup>216</sup>. NM, 15 April 1868.

<sup>217</sup>. Ibid.

<sup>218</sup>. NM, 27 Feb. 1868.

<sup>219</sup>. NM, 14 Dec. 1867.

neighbour, to her rescue. Her assailant heard him coming and escaped through the window, carrying away the bottom part of the window with him. <sup>(220)</sup> The prisoner had been previously employed by the lady and during that time she had often noticed him gazing on her in an impertinent manner, and his general conduct had on occasions made her feel uneasy. On the night her house had been broken into, she claimed to have seen the man from the side as he jumped out through the window. The prisoner attempted, without success, to prove an alibi that he was 15 miles away from the Berea on the night the attack took place. Justice Cope gave the prisoner a long lecture and sentenced him to seven years' imprisonment with hard labour and a flogging of 75 lashes. In passing sentence, he stated that "he was determined, as far as he could, to put down crimes of this nature, and he would have given [the] prisoner a more heavy punishment, were it not that there were several peculiar circumstances connected with his case as to the question of identity." <sup>(221)</sup>

The above cases clearly illustrate the fears and emotions which pervaded white settler society over the issue of African sexual aggression. Particularly during rape scare periods, an African who broke into a white-owned house was almost inevitably indicted on a charge of house-breaking with intent to commit a rape. By the same token, an African who assaulted a white female outside of her home was usually charged with the crime of assault with intent to commit a rape. White Natalians felt themselves to be threatened by their black counterparts on a number of fronts, but the threat of sexual attack exceeded all others in the hearts and minds of the white population. For this reason, any attack on the person of a white woman or girl automatically assumed sexual overtones. Every white person in the Colony of Natal - colonists, police, legislators and judiciary - felt the pressures of the situation and acted in a manner which was intended to preserve the colony as a safe haven for whites and, by implication, to perpetuate the dominance of the white Anglo-Saxon race.

By 1869 the Lieutenant-Governor regarded the question of social "outrages" as important enough to warrant considerable comment in his opening address to the Legislative Council. He was concerned that "the contact of heterogeneous elements in the population of a country fosters the commission of certain descriptions of crime which are of comparatively infrequent occurrence in less mixed communities." <sup>(222)</sup> In his opinion, what was needed to repress such crimes was "well-arranged prisons and a judicious system of severe and deterrent hard labour." "Thoroughly effective

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<sup>220</sup>. NM, 11 Jan. 1868.

<sup>221</sup>. NM, 27 Feb. 1868.

<sup>222</sup>. LC, 6 May 1869. cited in NM, 6 May 1869.

penal discipline" was his only solution to the problem: "severity of punishment must be relied upon for the repression of crime in countries where the means for its detection and for the apprehension of offenders are small." <sup>(223)</sup>

In an editorial, the Natal Witness argued that the root cause of these outrages was the "social evil" of polygamy. In accordance with this system, it claimed, if one man took five wives, four men were likely to go unmarried and wifeless as a result. This allegedly gave rise to "a formidable phalanx of savage unmarried men", who looked to the colony's white women and girls to satisfy their sexual appetites. Calling for fresh legislation to suppress "kafir outrages", the Natal Witness described the dangerous and intolerable state of Natal as follows:

When respectable females are knocked down in the streets, when tender children are torn from their beds, when it becomes unsafe for a white woman to venture out after dark without a male guardian, when houses are systematically watched so that the female tenants may be attacked during the absence of protection, and the records of our criminal sessions inform us of the daily increase of these assaults, when the existing means of repression and the whole code of punishment are both evidently inaccurate to stay the evil, it is clear that something further must be attempted as a preventative or with the view of finding a radical cure. <sup>(224)</sup>

The attitude of the Lieutenant-Governor and the Natal Witness represents the usual white colonial response to social problems which manifested themselves in Natal. Colonists and administrators usually opted to attempt to crush problems through legislation, more effective police enforcement and harsher sentences handed down by the courts. They neglected to look at the causes of conflict, which were usually to be found in the structure of society itself. This negligence was no doubt due to the fact that those in power wished to preserve the existing societal structure in order to preserve their own power base. In their selfishness, colonists believed that social problems would either "go away" or could be extinguished. They were not prepared to make concessions for the good of society. The results of their faulty perceptions extend right down to the present day.

Beall has shown that for Natal's white women, their arrival into a pioneering, colonial situation, as well as the fact that they could make use of cheap domestic and farm labour, constituted a fairly dramatic change in their condition and status. <sup>(225)</sup> She

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<sup>223</sup>. Ibid.

<sup>224</sup>. NW, 21 May 1869.

<sup>225</sup>. J.D Beall, 'The Function and Status of African Women in the Social and Economic Life of Natal and Zululand: 1818 -

argues further that "gender-related ideological imperatives altered in a colonial setting, exacerbating the Victorian double standard and resulting in increased restrictions on the movement and flexibility of white women at a time when their European counterparts were flexing their muscles and increasing their independence." <sup>(226)</sup> The growth of such colonial attitudes towards women "resulted in often unnecessarily draconian proposals and measures for the protection of white women and girls from the perceived threat of black male sexuality." <sup>(227)</sup> The rape scare of 1866-71 brought howls of protest from white residents, who demanded that tough legislation be enacted to stamp out the sexual dangers which the aggressive African male appeared to pose.

In May 1869, therefore, due to pressure from a number of sources, legislation was brought before the House in the form of a Bill "For the protection of women and female children." It was hoped that the proposed new law would serve to extinguish the colony's most troublesome social problem, the dreaded "social pest". The bill began by stating that assaults on women and female children were of frequent occurrence and it was therefore expedient to make the punishment for such crimes "more notorious and deterring". <sup>(228)</sup> Its clauses make interesting reading, revealing dramatically the extreme state of tension and anxiety which existed in colonial society:-

- "1. That in all cases where any man or boy over the age of fourteen years shall be convicted of an *assault with intent* on any woman or female child, such man or boy, in addition to the punishments at present inflicted for such crimes, shall be sentenced to have the letter R distinctly, conspicuously, and permanently branded on his forehead by the public executioner.
2. That in all cases where any man or boy over the age of fourteen years, shall be sentenced to death for any crime perpetrated on the body of any woman or female child, and such sentence shall be carried into execution, the body of such criminal after death shall be publicly exposed in an iron cage to be suspended in such place as the judge may direct.
3. That any person or persons removing or concealing any such cage, or carrying off the body, or any portion of the body, of any criminal from any such cage without the leave and consent of the Lieutenant Governor first had and

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1879', (B.A. Honours thesis, University of Natal, Durban, 1981), pp. 12-13.

<sup>226</sup> . Ibid.

<sup>227</sup> . Ibid.

<sup>228</sup> . NGG, 4 May 1869.

obtained, shall, on conviction of all or either of such acts, be sentenced to imprisonment and hard labour for not less than six months." <sup>(229)</sup>

Before the Select Committee had formulated its report, a new bill was brought before the House in July 1869, "For better preventing the crime of Rape" (No. 34 of 1869). The bill was clearly aimed at the black population and discriminated against these people in both letter and spirit. It stated that recently the crime of rape had been more frequently perpetrated than formerly and that it had become necessary to define "precisely and exactly" the punishment to be inflicted on such offenders. The bill contained only three clauses which read as follows:-

- 1) "... every Hottentot, Coolie, Bushman, Lascar, or Native convicted of the crime of rape on the body of any white female, shall be sentenced by the judge to be hanged by the neck until he is dead, such hanging to take place on the day next but one after sentence passed, unless the same shall happen to be the Lord's day, commonly called Sunday, and in that case on the Monday next following, and after death, his body being suspended for some time, shall then be taken down and buried within the precincts of the gaol."
- 2) "That any Hottentot, Coolie, Bushman, Lascar, or Native convicted of the crime of assault with intent any white woman or female child violently and against her will to ravish and carnally know shall be liable, at the discretion of the Court, to suffer death by hanging, as in last section is mentioned, or to be transported beyond the seas for the term of his natural life, or for any term not less than fifteen years, and the said Court may award, in case the sentence of transportation cannot be carried out, that such prisoner should be imprisoned during the term of his natural life, or for such term of years, not less than ten years, with hard labour, and in a gaol or hulks, with or without a public flogging or public floggings of so many lashes as the Court may order to be inflicted; and in every such case it shall be lawful for the Court to direct that the offender shall be kept in solitary confinement for any portion or portions of such imprisonment, not exceeding two months at any one time, and not exceeding six months in any one year."
- 3) "In this law the word "native" shall mean any of the people commonly called Kafirs, whether they are refugees from any of the surrounding states or tribes, or belonging to the tribes originally inhabiting this colony and its neighbourhood." <sup>(230)</sup>

<sup>229</sup>. Ibid. For details of the debate see LC, 4 June 1869. cited in NM, 8 June 1869. The matter was referred to a Select Committee for investigation. The Report of this Committee does not appear to be available.

<sup>230</sup>. NGG, 6 July 1869.

As with the first bill, the members of the House failed to reach agreement on the contents of the second bill and it did not pass into law. <sup>(231)</sup>

A further bill was brought before the House in 1869, namely "For the punishment of idle and disorderly persons, and vagrants, within the Colony of Natal." It was hoped that if some control could be exercised over these people, the high incidence of "kafir outrages" might be checked and greater security and protection for the white inhabitants of Natal would be ensured. The bill was aimed primarily at the African population and passed into law as the Vagrant Law (No. 15 of 1869). The law stated that:-

Clause 1: "Any person who shall be found wandering over any land belonging to, or lawfully and of right occupied by any private person or persons, or loitering on private property, near to, or lodging in, any house, outhouse or hut, without leave of the owner thereof, and who shall be unable to give a good and satisfactory account of himself, shall be deemed and may be arrested as idle and disorderly, and every person who shall wilfully, lewdly, openly, and obscenely expose his person in any road or public path, or in view thereof, or in any place of public resort (not within any borough), with intent to insult any female, and every person who shall publicly behave in a riotous or indecent manner shall be liable, on conviction before the Resident Magistrate of the county or division, on the complaint of the owner or occupier aforesaid, to imprisonment for any period not exceeding three months, with or without hard labour, and with or without spare diet, or to a fine not exceeding five pounds sterling, and in default of payment thereof to such imprisonment as last aforesaid." <sup>(232)</sup>

Clause one was not overtly racial in nature, making no specific reference to any particular race group. But the principal aim of this law was undoubtedly to exercise greater control over the colony's Indian and African populations. Passed in the middle of a rape scare period, the law was aimed at regulating the movement of non-

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<sup>231</sup>. According to Etherington, the Rape Law did pass, but was disallowed in London the following year because it meted out penalties according to the race of the criminal and not the nature of the crime. He contends that because this act preceded the period of greatest anxiety about sexual assault, it is possible to speculate that the discussion in the press and in the council was the cause rather than the consequence of panic among the colonists. N. Etherington, 'Natal's Black Rape Scare of the 1870s', Journal of Southern African Studies, Vol. 15, No. 1, October 1988, p. 45.

<sup>232</sup>. NGG, 28 Sept. 1869.

whites and curbing any disorderly or indecent conduct. It was intended to preserve the safety and sanctity of 'white' society.

Clause two, however, did refer specifically to the black population. It stated that in every borough of the colony "every coloured person (<sup>233</sup>) found wandering abroad after, and before such hour as such Corporation may fix, and not giving a good account of himself or herself" would be liable to be charged as in clause one above. Coloured persons found in houses, shops, stables, kitchens, out-houses and gardens, who were unable to give a good account of themselves, were also liable to prosecution, as were those who obscenely exposed their bodies in a public place or behaved in an indecent manner. Corporations were required to erect suitable overnight accommodation for such coloured people, who were not residents of the borough, but could not conveniently leave the borough before the hour fixed by the Corporation. The whites of Natal believed that the colony generally, but the towns in particular were their own. The presence of Africans and Indians in these towns was undesirable, but was regarded as a necessary evil since these people (mainly Africans) constituted the bulk of the labour force. At night, however, when whites wanted to relax and enjoy the security and freedom of *their* town, they could not accept the presence of black people, not even those who worked and lived in the town. It was widely held that the floating African population, those who drifted around the towns with no apparent job and fixed abode, were responsible for a great deal of criminal activity. The idea behind the new law, therefore, was to restrict and control the movement of all coloured persons (those who were employed in the town and casual visitors) in the various boroughs after a certain stipulated time at night (usually nine o'clock) until the morning (usually five o'clock). Like so much of the social legislation passed in the Colony of Natal, Law No. 15 of 1869 was essentially a control mechanism designed to preserve the region as a haven for the white colonists.

In July 1870 the "Rape Bill", "To regulate and define the punishment for the crimes of Rape, and Assault with intent to commit Rape", was again brought before the House, having failed to pass in the previous year. On this occasion, however, it appeared in amended, consolidated form, the overtly racial connotations having

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<sup>233</sup>. The words "coloured person" were defined as "any Hottentot, Coolie, Bushman, Lascar, or any of the people commonly called Kafirs, whether they are refugees from any of the surrounding states or tribes, or belonging to the tribes originally in this colony and its neighbourhood." Ibid.

been removed. <sup>(234)</sup> Clearly, though, it was still aimed at suppressing the animal (sexual) instincts of the "kafir beast". Clause 1 merely stated that "every person convicted of the crime of rape shall be sentenced by the judge to be hanged by the neck until he is dead." <sup>(235)</sup> Clause 2 also dropped the reference to black peoples, while clause 3 was scrapped altogether. After a short debate which "necessarily contained much which is unfit for publication", the question was put and negatived by nine votes to six. The Bill was accordingly thrown out. <sup>(236)</sup>

Up to 1870 Africans and Indians had on the whole been considered, except for their labour, as a peripheral concern, ancillary to the real tasks of building the fabric and institutions of an English town. <sup>(237)</sup> During the 1860s there had been little pressure on the Durban Town Council to embark on any programme of action to deal with Africans and Indians, and as a result no specific or concentrated policies emerged. The town was small, with ample space for all population groups, and general public control or supervision was deemed unnecessary. "Measures taken were isolated responses to circumstances as they arose, although some of the lines of future policy were implicit in them." <sup>(238)</sup> From the early 1870s, however, the position began to change as the Durban authorities came to focus more and more attention on the various social problems caused by growing numbers of Indians and Africans. These 'aliens' seemed to threaten the very existence of European civic life - public health, peace and security, the appearance of the town and the value of property. Tensions mounted as the vast cultural and social differences, economic jealousy in the case of Indians, and racial fear began to manifest themselves more clearly in the minds of Natal's white settlers. The social and moral consequences of the "Asiatic Menace" and the African "Social Pest" took definitive shape in European minds and prompted public expression and protest. In response, the municipal authorities began to formulate various mechanisms of control, such as separation, locations, registration, curfews and other restrictions.

Complaints of nuisances, thefts, squatting, drunkenness, indecent acts and indecent assaults upon white women continued to be widely reported in the press and at meetings of the Town Council. The Berea, on the border of the town, had already

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<sup>234</sup>. The British Government had the power of sanction over all legislation passed in the Colony of Natal. They would never have approved such a blatantly racist Bill.

<sup>235</sup>. *NGG*, 12 July 1870.

<sup>236</sup>. *NM*, 5 August 1870.

<sup>237</sup>. M.W. Swanson, 'The Rise of Multiracial Durban: Urban History and Race Policy in South Africa, 1830-1930' (PhD thesis, Harvard University, 1964), pp. 287-8.

<sup>238</sup>. *Ibid.*

allegedly become a hangout for "renegade kafirs", who idled away their time selling *isishimiyana* and provided shelter for thieves working in the town. <sup>(239)</sup> While many of these assaults may have been exaggerated or even imagined, there is no doubt that several were real and were regarded with absolute abhorrence by the white population. Savery Pinsent, a town councillor, wrote to the Natal Mercury in December 1870, expressing the mood of anger and anxiety which was growing amongst local whites: "We face a serious, disgusting, social evil ... aggravated by the collection of a mass of young male barbarians in our towns ... The public is beginning to be possessed with a spirit of blind fury at the danger, and to talk wildly and savagely about it." <sup>(240)</sup>

The new decade brought little respite from the threat of "kafir outrages" and the rape scare which began in 1869 continued unabated through to about mid-1872. White people remained generally dissatisfied with the law, the police and the law courts, demanding that the most repressive measures be employed to extinguish the "social pest." The Natal Mercury kept its readers well informed on the whole question: "The fact of which I speak is the existence of a deep and gaining feeling of insecurity against kafir annoyances, or as they should be more properly termed in a professedly Christian community, diabolical outrages, and of the very marked decrease in severity applied to the perpetrators of them." <sup>(241)</sup> While criticizing the police for failing to apprehend offenders, some colonists were also unhappy about the powers afforded to African policemen. The Natal Mercury "strongly deprecate[d] the intrusion of native policemen into the houses of Europeans, especially on business where European females [were] concerned." <sup>(242)</sup> Insolence or "undue assumption" on the part of African constables was considered to be a real problem: "Kafirs, when dressed in a little brief authority, are apt to be excessively impertinent and overbearing, and hence, as a rule, white policemen only ought to be employed where white people are concerned." <sup>(243)</sup> The general perception of the white population with regard to African constables was that they were a necessary evil to control the masses of Africans living in Natal; they should realise that, owing to their dark skin, their authority did not extend to the white man.

Certain magistrates, on the other hand, such as J.F.K. Dillon, appeared to give tacit recognition to the implementation of "Lynch Law". James Campbell and Thomas Smith were brought before the court, the former charged with having assaulted an

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<sup>239</sup>. Durban Corporation Meeting, 3 Nov. 1870. cited in NM, 10 Nov. 1870.

<sup>240</sup>. NM, 20 Dec. 1870.

<sup>241</sup>. NM, 7 Jan. 1871.

<sup>242</sup>. NM, 21 March 1871.

<sup>243</sup>. Ibid.

African and the latter with having aided and abetted in the assault. The African, who was in the employ of Campbell, had allegedly exposed himself to Campbell's sister and used "the most indecent" language towards her when she had refused him permission to fetch snuff. <sup>(244)</sup> Smith, who was a police constable, had later brought the man to Campbell who had assaulted him while the constable looked on. In passing judgement, Judge Dillon expressed the greatest sympathy with Campbell and almost went out of his way to justify the assault: "he agreed with Mr. Roberts [appearing for Campbell] that an insult of this kind offered to any English woman with whom a man had a near relationship - whether as brother, father, or husband - certainly went in the highest degree to mitigate an act of violence committed upon the insulter. Every man in court would feel with him when he said that insults of this kind were quite enough to make one, who was worthy of the name of man, to make his blood boil within him. He felt with Campbell in having done what he had and he believed there were few men in the court who could look quietly on the man who had offered such an insult to a female relation." <sup>(245)</sup> The judge went further to suggest that it was even more humiliating to be insulted by a member of another race: "This would apply also to the case of a whiteman; but when it came to be a man of a different race, occupying a different position in life, the crime was still more aggravated." <sup>(246)</sup>

The judge also took a lenient view of constable Smith's conduct, believing that, though he was present when the assault was committed, it was one which had taken place so quickly that he had not had the time to interfere. In addition, he suggested that the very fact of the constable being present may have tended to reduce the assault to the slight character it bore. <sup>(247)</sup> The judge fined constable Smith 10s. and expressed the hope that the man's employers would take the same lenient view of the case as he had done, and that he would not lose his situation. He also cautioned him to be more on his guard in future. Campbell, who had committed the assault, was fined the even smaller sum of 2s. 6d., or in default of payment 12 hours' imprisonment.

The African, who was charged with indecently exposing his person, was sentenced to a months' imprisonment with hard labour and a flogging of 20 lashes. The Natal Mercury felt "encouraged to hope that a stop will be put to the license coloured people have hitherto enjoyed, and trust that he [Judge Dillon] will be supported in his

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<sup>244</sup> . NM, 5 Nov. 1870.

<sup>245</sup> . Ibid.

<sup>246</sup> . Ibid.

<sup>247</sup> . The District Surgeon, Dr. Addison, had found that none of the wounds was in any way serious.

efforts to stamp out a class of offences which latterly have much increased." <sup>(248)</sup> It reported further that prominent members of the Vigilance Committee, who were present at the trial, had expressed their fullest satisfaction with the verdicts. In passing such lenient sentences on Campbell and his accomplice Smith, Judge Dillon was in essence making a public announcement from the bench that reprisals against Africans who were suspected of any sexual offence against a white female were an acceptable course of action to pursue. This reveals that even the judiciary could not always raise itself above the highly charged emotions which filled the veins of whites when they were threatened, or perceived themselves to be threatened, by sexual aggression from African males. It was not uncommon for whites to make a citizen's arrest on Africans suspected of an outrage and to administer a beating on the man while making the arrest; the judge was unlikely to even mention the violence surrounding the arrest and virtually never handed down any punishment to the guilty party. Many white Natalians were arrogantly confident that they could take the law into their own hands, in the belief that a white jury would be unlikely to deal too harshly with them: "take your savage to the nearest wagon-wheel, give him fifty lashes, and brand him with the letter R upon the forehead. It won't kill him, and he will not dare to complain to the Magistrate; and, if he does, don't be alarmed, no jury will convict you." <sup>(249)</sup>

Sentencing in the early 1870s remained severe, not only to punish the criminals for their dastardly deeds, but also in the hope that heavy penalties would serve as a deterrent to the rest of the African population. Ingeisman, an African, charged with having assaulted a German woman with intent to commit a rape, was imprisoned with hard labour for the term of his natural life. <sup>(250)</sup> Den Mahomed, an Indian, charged with house-breaking and assault with intent to commit a rape on a 13 year old white girl, was sentenced to seven years' hard labour and 50 lashes. <sup>(251)</sup> Maroji, an African, was charged with having broken into a white-owned house at Umbilo with intent to commit a rape, or to steal, or with some other unlawful intent; he was imprisoned for two years with hard labour and received a flogging of 100 lashes. <sup>(252)</sup>

Very few convictions for rape were handed down by the courts of Natal, the overwhelming majority of sexual cases being for house-breaking or assault with the *intention* of committing a rape. In many of these cases there was no evidence to suggest that the assailant had any such intentions, but the white population perceived any assault or attempted assault as an attempt to perpetrate rape. A

<sup>248</sup> . NM, 5 Nov. 1870.

<sup>249</sup> . NW, 5 April 1872.

<sup>250</sup> . NM, 16 Feb. 1871.

<sup>251</sup> . Ibid.

<sup>252</sup> . NM, 21 Dec. 1871.

conviction for rape meant the certainty of a death sentence, particularly if the attack was on a white female. Umgwabani, charged with rape upon a young white girl on the Berea, was positively identified by the girl and was sentenced to be hanged. <sup>(253)</sup> Justice Phillips told the man that if the law had permitted it, he would have sent him back mutilated to his rural home as a living witness to the crime he had committed. Umbulawe, charged with having committed a rape upon an African woman called Upiwazi, was sentenced to death, but his sentence was later commuted to a ten year period of imprisonment with hard labour. <sup>(254)</sup> It is unlikely that any such reduction in sentence would have been considered if Umbulawe had raped a white woman. A white man called William Jones was sentenced to death for the rape of a "little English girl of tender age". The sentence was later commuted to 20 years' hard labour and 75 lashes. <sup>(255)</sup>

Numerous cases of indecent assault were also handled by the courts during the early 1870s. Since these cases were relatively minor compared to those mentioned above, the sentences imposed on the miscreants were also less severe. As in the more serious cases, the evidence presented in court was often scanty and unconvincing, but it was usually good enough to convince the white jury and judge that the African man or boy before them was indeed guilty as charged. In one such case, an African boy aged about 15 years was charged with house-breaking with intent to commit an assault upon a little white girl. The boy had actually been engaged to work for the family two days' previously and had been left in the house to take charge of two children while the parents were away from home. The boy had apparently lifted the eldest child out of bed, when the neighbours, hearing their cries, went over and secured him. He was sentenced to a months' imprisonment and 25 lashes. <sup>(256)</sup> In another case, Fred, alias Shlebatu, was charged with indecently exposing his person to a little white girl. According to the girl's statement, he had offered her 3d. to go behind a tree with him. She had taken him up on his offer. <sup>(257)</sup> Fred appeared to be in the habit of committing such acts, the Natal Mercury stating that "This kafir seems to have made a trade of endeavouring to entice young white children into the bush, to tamper indecently with them." <sup>(258)</sup> Fred was found guilty and was sentenced to three months' imprisonment with hard labour. <sup>(259)</sup> In another

<sup>253</sup>. Ibid. In 1869 a law was passed which made the evidence of young children of five or six years of age admissible. Judges complained bitterly about this law since it often forced them to condemn a man to imprisonment and corporal punishment on the strength of a child's evidence.

<sup>254</sup>. NM, 15 June 1871.

<sup>255</sup>. NM, 24 Oct. 1871.

<sup>256</sup>. NM, 14 April 1870.

<sup>257</sup>. NM, 3 Dec. 1870.

<sup>258</sup>. NM, 6 Dec. 1870.

<sup>259</sup>. NM, 8 Dec. 1870.

indecent assault case, an African called Umzilelo pleaded guilty to having indecently assaulted an English girl seven years of age. He was sentenced to three years' imprisonment with hard labour, and 40 lashes, to be publicly administered at the west end of West Street on a Saturday morning at nine o' clock. <sup>(260)</sup> Chief Justice Harding remarked that since corporal punishment had ceased to be inflicted in public, it had also ceased to have that deterrent influence on criminals which it was intended to have. <sup>(261)</sup> He had, therefore, decided to revive the system of public floggings.

From Pietermaritzburg it was reported that cases of assault between African and African were becoming "of frequent occurrence". <sup>(262)</sup> Many of these African women who were attacked by African men were considered to be lowly characters with very dubious morals and they were unlikely to receive much sympathy when they took their assailants to court. In one such case, an African girl charged an African man "of forbidding aspect and very bad character" with an assault of a criminal nature. When the jury had considered the bad character of the prosecutrix and the circumstances of the case, they acquitted the prisoner. <sup>(263)</sup> In another case, an Indian was caught by a policeman in Field Street in the act of attempting to violate an elderly St. Helena woman. He was reported to have had the woman on the ground and had injured her throat with his hands. When he was brought before the magistrate, he was found guilty of a common assault only and was sentenced to 14 days' imprisonment with hard labour and 25 lashes. <sup>(264)</sup> There can be little doubt that if his victim had been a white woman, the man would have been convicted on a charge of assault with the intention of committing a rape. On occasions, however, heavy penalties were meted out to African men who attempted to ravage women of their own race; for example, Willem pleaded guilty to assaulting an African girl with criminal intent and was sentenced to five years' hard labour and a whipping of 75 lashes. <sup>(265)</sup> Prostitution in Maritzburg was considered to be "something fearful" and it was believed that it had "a most injurious effect in increasing the number of these offences (i.e. outrages)." <sup>(266)</sup>

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<sup>260</sup>. NM, 15 Dec. 1870.

<sup>261</sup>. Some years previously the residents of Durban had petitioned the Lieutenant-Governor to forbid public floggings and he had accepted the demands of the petitioners.

<sup>262</sup>. NM, 23 April 1870.

<sup>263</sup>. Ibid.

<sup>264</sup>. NM, 19 March 1874.

<sup>265</sup>. NM, 24 Nov. 1870.

<sup>266</sup>. NM, 23 April 1870.

A correspondent to the Natal Witness blamed immoral white women for teaching the local African population the ways of an immoral life. He claimed that these outrages had been "altogether unknown" until the arrival of some depraved European women in 1849-50. These women, he alleged, had first tempted or led on the Africans to commit such crimes. <sup>(267)</sup> Another correspondent also blamed immoral white women for contributing to the high incidence of "kafir outrages". He outlined four fundamental causes of this phenomenon:-

- 1) The growing practice of white females rolling drunk in the streets and being conveyed to the lock-up surrounded by a host of Africans enjoying the sport, lowered every white female in Natal in the eyes of the blacks, and went far to break down the barrier which had always existed between white and black.
- 2) The practice of young men and merchants bringing such immoral women to Natal and turning them adrift on the community to live a life of beastly degradation.
- 3) Undue familiarity with the African races.
- 4) The rule of the British army of sending so many men to the colony without their wives, the implication being that these men made use of prostitutes (both white and black) and thus further lowered the respect which blacks had for the white man. <sup>(268)</sup>

A further correspondent to the Natal Witness argued that the reason why these outrages were almost unheard of 20 years ago was because in those days the African chiefs used to punish their wrong-doers. In recent years, however, this power had been taken away from them and nothing had been substituted in its place. As a result, the chiefs expelled the riff-raff from their tribes and these people took up refuge in the 'white' towns. The towns had also become a harbour for numbers of Amatonga, Basutos and various other refugees, none of whom was accompanied by their women. He suggested that a Vagrant Law be passed to deal with "the hordes of black vagabonds who are living in the towns without any visible means of livelihood." <sup>(269)</sup>

In March 1872, at the height of the crisis, the Durban Town Council resolved to memorialise the Legislative Council to take action in the matter of the "now alarmingly frequent occurrence of outrages by kafirs upon females", with a view to making really effective preventive legislation. <sup>(270)</sup> The Council found that such action had become imperative since the organisation of the existing laws and law courts was, in their view, "totally incompetent to check the increase of those

<sup>267</sup>. NW, 5 April 1872.

<sup>268</sup>. NW, 17 March 1868.

<sup>269</sup>. NW, 3 April 1868. A Vagrant Law was subsequently passed in 1869.

<sup>270</sup>. NM, 28 March 1872.

frightfully debasing crimes." <sup>(271)</sup> A correspondent to the Natal Mercury claimed that ladies were afraid to be left alone in their homes in the evening, fearing an attack at any moment. Many residents of the Berea were reportedly especially worried about the possibility of being outraged. A woman, who was afraid to live on the Berea unless her husband could be home every night, compared dangerous Durban with tranquil Wakkerstroom where she used to reside: "[there is] no fear of the kafirs in the Transvaal, they know how to treat them there, and the kafir knows he would be strung up at once." <sup>(272)</sup>

One Durban resident considered that a great many of these outrages were committed by the "Point Portuguese kafirs". He described them as follows: "They have money, and one or two houses supply them till they are maddened, with rum of the worst description. Then they sally to town, spread themselves over it, come home again to the Point by the beach, and there is no clue to them. They are naturally dishonest, and are up to every trick in villainy." <sup>(273)</sup> He considered that, if the sale of ardent spirits to Africans could be stopped and the police could bring the vendours of liquor to book, this would help to put down crime among Africans and save many white females from the horrors of "kafir outrages".

It was also widely believed that a trade in *isishimiyana* was being carried on somewhere in the neighbourhood of the Berea and that this intoxicating drink often gave Africans the courage to perpetrate outrages against white females. In one such case, an African man followed a white lady who was walking to the turnpike with three young girls and two little boys. He was "perfectly naked, armed with a formidable stake, and apparently drunk." He had allegedly shouted after them, "stop young ladies, I have plenty of money." <sup>(274)</sup> As he was about to lay hands on the woman, her husband had intervened to prevent the assault. Magistrate Meller sentenced the man to a months' hard labour and 25 lashes. <sup>(275)</sup>

The lack of a regular police presence on the Berea was also thought to contribute to the frequency of outrages in this area. In the above case, for example, the African had been allowed to traverse the turnpike road in broad daylight without wearing a single item of clothing and he had not been arrested. The Natal Mercury suggested that the Durban Town Council should take steps to ensure that the Berea was visited by the Police at least once or twice per week. Ideally, a small patrol, consisting of a white, one African and one Indian constable, ought to go around the neighbourhood

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<sup>271</sup> . Ibid.

<sup>272</sup> . Ibid.

<sup>273</sup> . NM, 24 Jan. 1871.

<sup>274</sup> . NM, 20 Sept. 1870.

<sup>275</sup> . Ibid.

as frequently as possible. It was believed that this would "undoubtedly have the effect of keeping the kafirs there in awe, and would be a means of security for the peace and safety of the residents there, who pay the same rates as the residents in town." (276) The overwhelming feeling amongst the white population of Natal was that "kafir outrages" could be stopped by making examples of those Africans who committed them.

It is interesting to note that Pietermaritzburg escaped almost unscathed from the peril of the rape crisis of 1866-71. During this period criminal assaults and cases of indecent assault, exposure and harassment, and house-breaking with intent to commit rape were virtually unheard of in Maritzburg. Compared to the racial anxieties which permeated white society in Durban, Maritzburg remained safe and tranquil, almost unaware of the traumatic sufferings of her coastal sister. In comparison with the Natal Mercury (Durban's leading newspaper), which has numerous articles and editorials on "kafir outrages", Maritzburg's Natal Witness contains only the very occasional article on the rape scare. This is a clear indication that Maritzburg did not experience anything like the crisis which hit Durban. The Secretary for Native Affairs claimed that foreign Africans, such as the *Amatonga*, committed the majority of these outrages. This might explain the fact that Maritzburg, having an African population consisting primarily of local Zulus, did not suffer a rape crisis.

During 1872, however, cases of "kafir insolence" and "kafir outrages" made their presence felt in Maritzburg. It was reported that "No unescorted white female can now stroll, as was once quite possible, along the river's bank or in any part of the suburbs without being put through a catechism of rude and impertinent enquiries, asked in a tone of offensive familiarity." (277) Virtually every newspaper recounted some new outrage committed by Africans, whether in the shape of house-breaking or assault. It was felt that "This has now reached such a pitch as to have become absolutely intolerable, and the existing laws seem powerless to grapple with such a state of things." (278) A memorial to the Maritzburg Town Council was being prepared, requesting six or eight additional constables to police the town. A further memorial was being prepared for the Legislature, asking that magistrates be empowered, in the case of old offenders, to banish them from the city for a time. There were those who believed that most of the indecent assaults were being perpetrated by some six or eight individuals, who infested the town, and, encouraged by their impunity, grew hardened in crime.

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<sup>276</sup>. Ibid.

<sup>277</sup>. NM, 25 April 1872.

<sup>278</sup>. NM, 23 May 1872.

Instances of so-called "kafir immorality" served as a constant reminder to whites that there was indeed a fundamental difference between whites and blacks when it came to standards of civilization. Although bye-laws had been passed in both Durban and Maritzburg requiring Africans to be fully clothed at all times, these had not always been fully enforced by the authorities. As a result, the occasional African could be seen standing on a public footpath in broad daylight, washing himself from a bucket of water drawn from the sluit, wearing nothing but his *umutya*.<sup>(279)</sup> Such a scene would have constituted a terrible shock to the moral sensitivities of a Victorian woman and would have further encouraged Victorian husbands to save their wives from African degradation. It was felt that some means needed to be devised "to teach these savages that if they come to live among civilised people, their uncivilised habits must be, for the time at least, laid aside."<sup>(280)</sup> The alleged immorality of African women was also a grave source of concern for local whites. In Maritzburg African women were reported to be parading the streets at all hours in a state of almost absolute nudity, the amount of clothing worn by them apparently becoming less and less by the month. Once again, basic standards of civilised behaviour appeared to be under threat.

White immorality, quite understandably, was never the subject of much debate in the Colony of Natal where white settlers preferred to focus their attentions on instances of African and Indian immorality. Far from being model Victorians, white Natal was essentially a frontier society "where the conventions of English propriety were constantly transgressed."<sup>(281)</sup> A considerable proportion of the white population was prepared to flout conventional usages; there is widespread evidence of public drunkenness, prostitution and 'immoral' intercourse with members of the indigenous African population. Whites occupied a dominant position in society which gave them the power to behave almost as they wished and to treat the black population in any manner they pleased. But they were acutely aware that the continuance of their control and therefore their safety was dependent upon the maintenance of strict standards of behaviour among the African population. For this reason, the 'civilising' and 'uplifting' of Natal's 'savage' African population was considered to be a priority. While claiming the moral high ground for themselves, the whites of Natal were far from fulfilling the demands of Victorian morality. But they tried relentlessly to instill these qualities into the region's African and Indian peoples.

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<sup>279</sup>. An African who contravened Bye-Law No. 21, by being insufficiently clothed, was likely to be fined about 2s. 6d., but fines as high as 20s., or a month in prison, were also imposed on occasions.

<sup>280</sup>. NM, 8 June 1872.

<sup>281</sup>. N. Etherington, 'Rape Scare', op. cit., p. 43.

Amidst the moral panic which rampaged through Natal and all the negative feelings which were directed against black people, there were those white residents who believed that Natal was still a haven of peace and security, and that the frequency of outrages had been exaggerated by the colonial press. Such exaggeration was allegedly achieved in the following manner:

We have one paper after another first giving an account of an outrage, then it is copied from one paper into another, and by at least two of the papers re-published again for their monthly summaries, ... Then ... we must have long, luminous and horrifying leading articles written about it, and these again carefully reprinted in said summaries, ...one case magnified, or at least repeated six or eight times in the course of the month in which it transpired, and again as many times when it comes to trial. <sup>(282)</sup>

The correspondent above believed that one would have to look far before finding such a peaceful and secure community: "I would like to ask these alarmists where they would find another colony where in twenty years there has been less crime committed by civilized or uncivilized men? Where they would find - among so sparse a white population as we have here, surrounded by such an undue proportion of blacks - so little to dread in any shape - so much security as we feel - such bad locks, bolts and bars as our houses, granaries, and stables possess?" <sup>(283)</sup> He earnestly believed that Africans did not pose a threat to the whites of Natal. In his experience African servants had for years past enjoyed free access to their homes, at all hours of the day and night. The white man's cattle, horses, children and even money on occasions were entrusted to these African servants, who had always proved to be faithful and trustworthy. Thus he could conclude quite confidently that, "We, parents and children alike, feel no dread of the natives." <sup>(284)</sup>

There are a number of possible explanations for the phenomenon of rape scares which caused so much fear and hatred to rise up among Natal's white population. As Etherington has noted, the fear did "not appear to have been engendered by any specific event, nor did it result in a marked increase of prosecutions for rape in the colonial courts. It ended as abruptly and mysteriously as it had begun." <sup>(285)</sup> The

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<sup>282</sup>. NW, 17 March 1868. He estimated that about 20 such crimes had been committed in the past 20 years, but admitted that most of these had occurred during the past four years.

<sup>283</sup>. NW, 17 March 1868.

<sup>284</sup>. Ibid.

<sup>285</sup>. N. Etherington, 'Rape Scare', op. cit., p. 36.

arguments advanced below all contributed to a 'disease' which appeared to threaten the very fabric of society and placed serious doubts about the future of the colony as a haven of peace and security.

T.R. Gurr *et al* have shown that in London in the 1830s cases of rape and sexual molestation on young girls were somewhat less common than cases of prostitution (mainly brothel-keeping) which constituted the most prolific sexual offence. Each year about 20 men were committed for trial for such offences and about half were convicted. After 1860, however, London was seemingly swept by a wave of sex crimes. Gurr *et al* believe "the data to be an official reflection of Victorian moral views, which in the latter half of the century led to the increasingly minute description and prohibition of what males ought to do, or with, females of various ages." <sup>(286)</sup> Just as Londoners perceived a wave of sex crimes from 1860 onwards, so white female Durbanites perceived the imminent threat of sexual attack by African males in two distinct rape scare periods, viz., 1866-71 and 1886-7. It is possible that the heightened moral concerns of Victorians were responsible for both phenomena. <sup>(287)</sup> Convictions for sex crimes committed in London increased dramatically between 1880 and 1900 without a corresponding rise in conviction rates for other offences. Gurr *et al* admit that "it is tempting to interpret this as an official manifestation of Victorian morality." <sup>(288)</sup> To an extent, therefore, the rape scares which plagued colonial Natal can be explained in terms of a moral panic; a sharpening of Victorian moral concerns in response to the perceived threat of aggressive black sexuality.

The sociologist Stanley Cohen has coined the phrase "moral panic" to describe situations in which a section of the community is gripped by fear out of proportion to any existing threat. <sup>(289)</sup> He links them to fears about property and social control in the dominant class. It is feasible that the fear of rape in colonial Natal was aroused not so much by real sexual assaults as by increases in the incidence of other sorts of crimes perpetrated by Africans against the persons and property of the white colonists. An examination of criminal activity in the colony around this time suggests that such a theory might be very close to providing a logical explanation to the phenomenon of rape scares. Old residents of Natal could remember a time when theft was unknown. A Methodist missionary complained in 1872 that "The whole of the Native population of Natal is not what it once was. Crimes which were scarcely known years ago, such as cattle stealing, assault, murder, theft, burglary &c are

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<sup>286</sup>. T.R. Gurr *et al*, The Politics of Crime and Conflict (Beverly Hills, 1977), p. 70.

<sup>287</sup>. Ibid.

<sup>288</sup>. T.R. Gurr *et al*, op. cit., p. 637.

<sup>289</sup>. S. Cohen, Folk Devils and Moral Panics, The Creation of the Mods and Rockers (New York, 1980).

becoming very common now, and do not augur well for the future." <sup>(290)</sup> This increase in crime was particularly noticed in the towns, the very areas where the rape crises manifested themselves. In Durban the number of thefts committed by Africans almost doubled in 1865 compared with the previous year (1864: 57 cases; 1865: 110 cases) and white residents began to express concern about the thieving propensities of town Africans. From 1866 cases of house-breaking became quite common, prompting the Natal Mercury to warn Durbanites that "bolts and bars, as well as vigilance, are necessities just now." <sup>(291)</sup> It argued that "these burglarious entries into private houses, with the vilest intentions, must be checked by punishments of the most stern and startling nature." <sup>(292)</sup> By 1867 house-breaking had become "really serious" and was attracting the passionate attention of all concerned colonists. <sup>(293)</sup> The illicit consumption of alcohol by Africans was also causing concern among white custodians of the colony's morals. Although the sale of intoxicating beverages to Africans was forbidden by law, bootleg brewing and backdoor sales were common. Africans in both Durban and Maritzburg could obtain as much of every kind of alcohol as they could afford to pay for. African drunkenness in Durban increased three-fold between 1864 and 1865 (1864: 22 cases; 1865: 67 cases.) and although it still lagged significantly behind white and Indian drunkenness, it is probable that white anxiety about the consequences of African drunkenness, principally crime and unproductivity in the work-place, began to rise.

There is little evidence to suggest that Africans posed a physical threat to the persons of the white settlers. Indeed, by the time of the first Rape Scare, much of the traditional respect with which Africans regarded the white man was still in place. In 1872 the editor of the Natal Witness remarked when reporting a murder in Newcastle County that it was only the "third or fourth time in the history of Natal that a white man has met his death at the hands of a native." <sup>(294)</sup> Whatever the realities of the situation, however, Natal's white population did harbour certain underlying fears about the dangers of physical attack by 'barbaric' Africans. Various material and other circumstances periodically brought these fears to the surface.

It was not only white observers who criticised the morality of the towns. Residents of country mission stations regarded the morals of the townsfolk as dangerously loose

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<sup>290</sup> . J. Jackson, jnr. to the Secretaries of the Wesleyan Methodist Missionary Society, 14 Oct. 1872. Methodist Missionary Society Archives, London. cited in N. Etherington, 'Rape Scare', op. cit., p. 41.

<sup>291</sup> . NM, 16 Jan. 1866.

<sup>292</sup> . NM, 12 April 1864.

<sup>293</sup> . NM, 7 March 1867.

<sup>294</sup> . NW, 5 April 1872.

and were reluctant to allow their daughters to spend time alone in the company of unmarried white men. People in Zululand had a very low opinion of the morals of all the Africans of Natal whom they called the *amakafula* (kafirs). They refused, for example, to sit on a chair used by anyone who had been in service in Natal because of their dread of syphilis. <sup>(295)</sup>

A country member of the Legislative Council, J.M. Boshoff, remarked in 1865 that the theft of animals was still very rare in rural areas; he claimed that the worst thieves were in Maritzburg and not all of them were African. <sup>(296)</sup> But the general consensus was that both cattle-stabbing and stealing were widely prevalent and increasing by 1866. Reports from the Umzinto area indicated that these cases were becoming "inconveniently common". <sup>(297)</sup> It was estimated that "very considerable" losses were being sustained by stock farmers throughout the colony. By this time, however, the legendary reputation of the honest "raw kafir" was still firmly in place, especially when compared to his brothers and sisters who had gravitated to the 'white' towns. Whites who lived in the rural areas did not have such close contacts with Africans and therefore an increase in rural crime was not as keenly felt as an increase in urban crime. For this reason, although rural crimes were also beginning to increase around the time of Natal's first rape scare, the countryside did not suffer the emotional trauma of the scare which was confined to the towns.

In the light of the increasing incidence of property offences committed by Africans and the increasing prevalence of African drunkenness, and the age-old perception that African males posed a physical danger to white women and children, it is possible that the white residents of towns like Durban were plunged into a state of moral panic, in which their fears about the level of African crime and the state of African morality, were translated into a deep-seated fear about the dangers of sexual attack by African men on white women and children. The significant increase in African theft and drunkenness prompted fears in white society that they might be losing control of these black 'savages', a situation which would have dire consequences for the position of the white man in Natal. If Africans gained control over the colony, this would also give them control over white women, a commodity which white men regarded as their ultimate piece of property. A complex set of mental processes therefore contributed to Durban's first rape scare (1866-71).

Despite the attempts of the settlers to exercise tighter control over Natal's African population, "in nearly every instance attempts to legislate for more control could be

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<sup>295</sup> . N. Etherington, 'Rape Scare', *op. cit.*, p. 42.

<sup>296</sup> . *NW*, 2 June 1865.

<sup>297</sup> . *NM*, 3 Jan. 1866.

expected to loosen rather than tighten the invisible restraints of habit and tradition which were the real enforcers of morality among the Nguni people." (298) In trying to impose European law and usages, the colonial government paid little attention to the enforcement of African rules of conduct. Certain procedures, such as the 'smelling out' and punishment of accused witches, were banned. Missionaries were often successful in preventing runaway wives and daughters from being returned to their homesteads. Disputes concerning *lobola* were settled by white magistrates and Administrators of Native Law with little intimate knowledge of the workings of this custom. White men were seldom prosecuted for rape or immoral conduct with African women; instead, the police concentrated their energies on tracking down African rapists. The Natal Witness opposed any expansion of the responsibilities of African lawmen on the grounds that they could not be trusted to police their own people. (299) Cases which did come before the higher courts of Natal tended to be decided in accordance with "the prejudices and needs of colonists rather than the established precepts of customary law." (300) Although whites desired to civilise the African race, this necessarily involved the erosion of the traditional African culture. Increasing contact with white civilization undercut many of the old safeguards of Zulu morality and failed to replace them with any new restraints. In their efforts, therefore, to impose greater control over Natal's indigenous African population, they were in effect creating a situation in which these people became increasingly uncontrollable. Perceptions that control was being lost, produced the level of fear and anxiety of which rape scares were made. Etherington has drawn attention to this process: "Settlers would not and probably could not call a halt to the process of colonial development that was altering black perceptions of morality, but its inexorable progress heightened anxiety that more and more African behaviour was beyond their power to control." (301)

At the time of Natal's first rape scare (1866-71), various processes and events served to increase the fears of whites of losing control over the African population. There were many powerful forces of change at work in south-east Africa at this time which created unease among the colonists. (302) Within Natal, African peasant farmers and transport riders were emerging as formidable competitors. Similar processes of economic transformation were taking place among various tribes outside of Natal, such as the Sotho, the Shangane, the Swazi and the Pedi, nurturing fears of armed black allies mounting a general challenge to white dominance. The railway construction programmes of the Cape Colony and the

<sup>298</sup>. N. Etherington, 'Rape Scare', op. cit., p. 49.

<sup>299</sup>. NW, 26 Nov. 1872.

<sup>300</sup>. N. Etherington, 'Rape Scare', op. cit., p. 49.

<sup>301</sup>. N. Etherington, 'Rape Scare', op. cit., p. 50.

<sup>302</sup>. N. Etherington, 'Rape Scare', op. cit., pp. 50-1.

mining of diamonds at Kimberley increased the flow of migrant labourers to these areas. Many young African men from Zululand and Natal were attracted to the diamond fields where liquor, women and arms were in plentiful supply. Whites in Natal feared that local Africans would return with the vices and new-found confidence of the diggings. With regard to Zululand, white fears were based on their ignorance of what was happening there. It was suspected that Cetshwayo, the likely successor to Mpande, was intending to revive the warlike ways of his ancestors. In September 1871 it was rumoured that he was about to cross the Tugela at the head of an invading army.

The authorities in Natal were almost powerless to curb these disquietening developments and could do little to placate the fears of white colonists. They tended to attempt to increase control over the local African population through a combination of new legislation, stricter police enforcement and judicial severity. None of these mechanisms, however, appeared to achieve satisfactory results. They attempted to insulate the colony from outside threats by strictly enforcing the regulations governing African importation and possession of firearms. One of these attempts led to the notorious Langalibalele affair in which the Hlubi and Ngwe tribes were ruthlessly crushed by the Natal Government. Etherington has suggested that the harsh reply to Langalibalele's alleged resistance may have been a sub-conscious attempt by the white colonists to avenge five years of "kafir outrages".<sup>(303)</sup> This motivation is unlikely, however, because the rape scare had run its course by mid-1872, well before action was taken against Langalibalele in October 1873. By this time the racial passions of whites against the African population had calmed down.

It has also been contended that it is possible to establish a direct correlation between economic hard times and rising tensions in the "native" question. The two rape scare periods, namely 1866-71 and 1886-7, coincide with periods of severe economic depression in South Africa. Indeed, Schumann describes the depression of 1865-6 to 1869 as "one of the most severe South Africa experienced during the nineteenth century."<sup>(304)</sup> Natal experienced her first rape scare during the period 1866-71, right in the middle of a severe economic depression. As the economy began to revive in 1869-70 and eventually prospered markedly from 1870-5, so thoughts of sexual attacks faded from the minds of Natal's white colonist population.

In 1881 South Africa suffered a diamond crisis, which was followed by a severe depression from 1882-6. Once again Natal suffered a rape scare (1886-7) after six

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<sup>303</sup>. Ibid.

<sup>304</sup>. C.G.W. Schumann, *op. cit.*, p. 112.

years of extreme financial uncertainty. When the economy began its recovery from 1886-7 onwards, the frightening danger of the "social pest" began to recede once more.

The gold crisis of 1889-90 which was followed by a depression lasting until 1892 was accompanied by renewed anxiety about the sexual passions of Natal's African population. <sup>(305)</sup> The evidence suggests that severe economic uncertainty and depression precipitated a great deal of anxiety and fear in the minds and hearts of the local white population *vis-a-vis* the possibility of being sexually molested by an African. While some of these attacks no doubt did take place, there does seem to be a distinct correlation between economic and sexual fears leading to a series of mostly fictional attacks. An African found under his mistress' bed or peering through a window into a white-owned house was quite likely to be convicted on the charge of house-breaking with intent to commit a rape. An African who brushed against a white female on the footpath or attempted to converse with her could have found himself in court on a charge of indecent assault. The criminal statistics tend to confirm Etherington's assertion that "during the rape crisis everyone was scared and practically no one was raped." <sup>(306)</sup> The table below shows that the number of Africans convicted for sexual crimes against white women and children was not significant and did not increase as the level of panic increased between 1866 and 1871. Indeed, the number of convictions in the year after the rape scare had ended (i.e. 1873) is equal to and often greater than the number of convictions at the height of the crisis when public anxiety was brought to a fever pitch:- <sup>(307)</sup>

Convictions for Sex Crimes by Africans against Whites (1866-73)

	<u>In Circuit Courts</u>	<u>In the Supreme Court</u>
1866	1	-
1867	2	-
1868	4	2
1869	1	1
1870	-	-
1871	2	-
1872	1	-
1873	1	1

It is easy to imagine how a person who is threatened economically might also feel threatened on a number of other fronts. A possible threat to his wife's sexuality could represent the very depths of a man's neurosis. During a time of severe depression colonists probably felt more vulnerable to the perceived threat of the

<sup>305</sup>. This scare was not on the scale of 1866-71 and 1886-7.

<sup>306</sup>. N. Etherington, 'Rape Scare', op. cit., p. 36.

<sup>307</sup>. Cited in N. Etherington, Ibid.

African 'menace'; their fears brought on a series of 'attacks' which seemed to confirm their worst suspicions about the threat posed by the African population. Swanson's characterisation of the "Asiatic Menace" is applicable to "kafir outrages" and the "social pest": "far less a tangible reality than a panicked state of mind which dwelt on the substances of things feared and the vision of things unseen." (308) Etherington has captured the essence of this phenomenon:

...fear of losing control was a constant undercurrent in the thinking of the settler minority. This substratum of anxiety rose to the surface in the form of a moral panic whenever disturbances in the economy or the body politic were severe enough to unsettle the mask of composure worn by the face of public authority. In a patriarchal society where women were part and parcel of property to be defended against threats from below, fear of rape was a special concern of white males. (309)

Exner's study of crime in Austria during the First World War produced the theory that the scarcity of commodities explains both the increase in thefts and the decrease in sex offences and assaults. Thefts increased because of the pressure of unsatisfied needs and the restrictions on legitimate methods of securing commodities; sex offences and assaults decreased because the undernourished people had little surplus energy for this type of crime. During this time alcohol was a scarce commodity and Exner found that the decrease in sexual crimes was especially affected by the scarcity of this commodity. (310) Exner's theory, however, does not appear to be valid for the Colony of Natal. Any scarcity of commodities which arose during a period of depression did not have any retarding effect on the incidence of sexual crimes. Rather, in colonial Natal, the rate (or at least the perceived rate) of sexual offences actually increased during times of economic depression, suggesting that the perpetrators did not lack the physical energy or the alcoholic courage to pursue their perverted behaviour. (311)

To an extent, these rape scares which appeared to ravage and torment Natal's white settler community, can be explained in terms of the perceptions which whites entertained about the nature of black sexuality. The contacts which whites had had with various black peoples for at least the previous one hundred years had caused various stereotypes (principally that blacks were sexually lascivious and immoral) to

<sup>308</sup>. M.W. Swanson, 'The Asiatic Menace', op. cit..

<sup>309</sup>. N. Etherington, 'Rape Scare', op. cit., p. 36.

<sup>310</sup>. cited in E.H. Sutherland, On Analyzing Crime (Chicago, 1973), p. 122.

<sup>311</sup>. Although there were very few convictions of Africans for sexual crimes against whites in this first rape crisis (1866-71), there was a significant increase in the number of convictions during the second rape crisis (1886-7).

become ingrained into the Victorian psyche. These preconceptions were often founded not in fact, but in myth, and merely served to cause Englishmen to suffer a great deal of unnecessary emotional stress. The sexual stereotypes which were used to describe African people were particularly damaging and hurtful to the sense of security of whites, who found themselves living in a region dominated by a large indigenous African population.

From at least the 1770s onwards, Negroes were credited with extraordinary sexual prowess. A popular pamphlet of 1772 reported that "the lower class of women in *England* are remarkably fond of the blacks, for reasons too brutal to mention." <sup>(312)</sup> It was thought that the penis of Negro men was larger than that of Europeans and that Negro women were sexually more desirable for physiological reasons left unexplained. <sup>(313)</sup>

The concept of the Negro's aggressive sexuality was reinforced by this alleged anatomical peculiarity of the Negro male. The idea that Negro males possessed especially large penes was extremely old, predating the settlement of America and possibly even the Portuguese explorations of the West African coast. Several fifteenth century map makers decorated parts of Africa with little naked figures which lent graphic expression to the idea. In due course, in the seventeenth century, English accounts of West Africa were relating the "extraordinary greatness" of the Negroes' "members." <sup>(314)</sup> By the final quarter of the eighteenth century the idea that the Negro's penis was larger than the white man's had become commonplace in European scientific circles. Whether it was a commonplace in popular circles in the English colonies, such as Natal, is more difficult to ascertain, since it was hardly the sort of assertion likely to find its way into print even if a great many people talked about it. <sup>(315)</sup> What is certain, however, is that the white residents of colonial Natal viewed the local African males as being sexually aggressive and promiscuous. Their fear of sexual attack by African males festered just beneath the surface even during relatively stable periods of white/black relations. And when white society came under pressure, such as the economic pressures experienced during a period of

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<sup>312</sup>. T. Lownes, Candid Reflections upon the Judgement Lately Awarded by the Court of King's Bench in Westminster Hall on What is Commonly called the Negro Cause, (1772), p. 49. cited in P. Baxter, Race and Social Difference, chapter by P.D. Curtin, 'British Images of Africans in the Nineteenth Century', p. 137.

<sup>313</sup>. For example, E. Long, A History of Jamaica, 2 vols., (1774), pp. 383-4, Vol. 2. cited in P. Baxter, op. cit., chapter by P.D. Curtin, 'British Images of Africans in the Nineteenth Century', p. 137.

<sup>314</sup>. Ibid, p. 82.

<sup>315</sup>. Ibid.

depression, these fears bounded to the surface with vengeance. To an extent, therefore, the rape scares of 1866-71 and 1886-7 can be attributed to the fears which white Natalians harboured about the alleged rampant sexuality of the indigenous African population.

The notion that black men were particularly virile, promiscuous and lusty was not new in the eighteenth century, but the English colonists in America added the corollary that black men lusted after white women. There was probably some objective basis for the charge, since sexual intercourse with a white woman would have been for black men, in part, an act of retribution against the white man. There was also good basis for the common feeling that only the most depraved white woman would consent to sleep with a Negro, since white women of the lowest class had the least to lose in flouting the maxims of society and the most reason to hate them. However, Jordan argues that "no matter how firmly based in fact, ... the image of the sexually aggressive Negro was rooted even more firmly in deep strata of irrationality." <sup>(316)</sup> White men projected their own desires onto Negroes since their own passion for black women was not fully acceptable to society or themselves and hence not readily admissible. But sexual desires could be effectively denied and the accompanying anxiety and guilt in some measure eased by imputing them to others. In addition, white men were anxious over their own sexual inadequacy; perhaps, the Negro was a better lover than he and maybe the white man's woman really did want the Negro more than she wanted him. Jordan notes that these tensions tended to bubble to the surface especially at times of interracial crisis when the colonists' control over their Negroes appeared in jeopardy. During many scares over slave conspiracies, for example, reports circulated that the Negroes had plotted to kill all white people except the young women, whom they intended to reserve for themselves. But these charges are ill-founded since there is no evidence to suggest that any Negroes in revolt ever seized any white women for their own use even though they had the opportunity to do so. <sup>(317)</sup>

Jordan concludes that "from these indications it seems more than likely that fears of Negro sexual aggression during periods of alarm over insurrection did not represent direct response to actual overt threat, but rather a complex of reactions in the white man. Any group faced with a real threat of serious proportions is inclined to sense, even on a conscious level, a sexual element in the opponents' aggressiveness." <sup>(318)</sup> Furthermore, any black insurrection threatened the white man's dominance, including his valuable sexual dominance, and hence the awful prospect of being

<sup>316</sup>. W.D. Jordan, The White Man's Burden: Historical Origins of Racism in the United States (New York, 1974), p. 80.

<sup>317</sup>. Ibid.

<sup>318</sup>. W.D. Jordan, op. cit., p. 81.

overthrown was bound to assume a sexual aspect. Finally, white men anxious and guilty over their own sexual aggressiveness were quick to impute it to others, especially at a time of interracial crisis. One can easily imagine the emotions of guilt flooding through some planter who has been regularly sleeping with some of his slave girls when he learns of a conspiracy among their male counterparts; inevitably his thoughts turned in a torrent of guilt to the "safety" of his wife. (<sup>319</sup>)

While there are many fundamental differences between the colonies of America and Natal, Jordan's theories do have some relevance to the historian of colonial Natal. There is little doubt that, during periods of economic depression, the fears and anxieties of white Natalians about the state of the economy brought other basic fears to the surface, especially the threat which the region's seething black population appeared to pose to the peace and security of the white settler population. During such periods a neurotic fear of losing control permeated the minds of Natal's white settler minority. The perceived sexual threat to white women and girls represented the extremity of white fear. History has shown that societies under threat often perceive a sexual threat to the females of that society.

Partly because their relationships with blacks were structured by daily contact, the American colonists perceived Negroes as more highly sexed than the American Indians. But the magnitude of the differentiation they made between the two aboriginal peoples on this score was "so great as to suggest that it reflected not merely the immediate circumstances in which the colonists found themselves but the entirety of English historical experience since the beginning of expansion overseas. (<sup>320</sup>) Far from regarding Indians as lusty and lascivious, they found them to be notably deficient in ardor and virility. Almost inevitably, the myth arose that the Indian's penis was smaller than the European's. The colonists did not develop an image of the Indian as a potential rapist: their descriptions of Indian attacks did not include the Indians "reserving the young women for themselves." In fact, as Jordan has noted, the entire inter-racial sexual complex did not pertain to the Indian. In the more settled portions of the colonies, Englishmen did not usually take Indian women to bed, but neither did an aura of tension pervade the sexual union of red and white. Of the various laws which penalized illicit miscegenation, none applied to Indians and only Virginia's (for a very brief period) and North Carolina's prohibited intermarriage. On the contrary, several colonists were willing to allow, even advocate, intermarriage with the Indians, which was an unheard of proposition concerning Negroes. (<sup>321</sup>)

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<sup>319</sup>. Ibid.

<sup>320</sup>. W.D. Jordan, op. cit., p. 83.

<sup>321</sup>. Ibid.

The experience of colonial Natal with regard to her Indian population is similar to the American experience in several respects. The whites of Natal did not appear to harbour any fears about the sexual aggressiveness of Indian males. They may have complained about the immorality of Indians (prostitution and the high incidence of social diseases on the sugar estates), but the danger of being sexually molested by an Indian man appears to have been non-existent. The two rape scare periods were dominated exclusively by assaults allegedly perpetrated by African males; the Indian was never implicated in any of these assaults. While whites did feel threatened by the economic prowess of Indians, these fears never manifested themselves on a sexual level.

The population figures for Durban and Pietermaritzburg may help to explain both the perceptions held by whites about the nature of African sexuality and the attacks by African men on white women which did actually take place. There were vast discrepancies in the numbers of African men and women who resided in the Boroughs of Durban and Pietermaritzburg. At the time of the first rape crisis (1866-71), 1 527 African men and only 250 African women were resident in the Borough of Durban, while 2 689 African men and only 295 African women lived in the Borough of Pietermaritzburg. <sup>(322)</sup> The majority of African men who came to work in the colony's principal towns left their wives behind in the reserves in order to sustain the traditional agricultural activity aimed at feeding those members of the family who remained in the countryside. There was thus a serious shortage of African women in the 'white' towns. In view of this shortage, it is possible that these African men began to cast their eyes onto the women and children of their white masters. Certainly, the African appeared to be somewhat fascinated by his white brethren; numerous cases were reported of Africans found peering through windows and hiding under their mistresses' beds. It is even more likely, however, that the white colonists translated their knowledge of the small numbers of African women in the towns into a deep-seated emotional neurosis which feared that African men would necessarily focus their desires on white women in the absence of their 'own' women.

To sum up, a number of complex physical, emotional and psychological processes contributed to a phenomenon which terrorised Durban's white settler community during the period 1866-71. Various underlying factors, principally the psychology of sexual relations in a racially divided society, must be considered as prerequisites to the rape crises. It has been suggested, for example, that fear of competition from more virile, potent black rivals has been deep-seated in the psyches of white males for centuries and that white women in colonial situations encourage such fears to

<sup>322</sup>. MM, Dbn. & Pmb., 1866-1871.

revenge themselves on the men who impose chastity on them while freely enjoying sexual connections with females of the subject people. <sup>(323)</sup> It has also been suggested that fear of sexual assault is a form of guilt transference whereby the male masters of a colonial society who have invaded the lands and grabbed the possessions of another people blame the subject race for daring to invade their most precious property, their women. The complex psychology of racism itself was undoubtedly another underlying factor. These factors, however, cannot in themselves adequately explain the phenomenon of rape scares of limited duration since they presume the existence of a persistent anxiety undercutting that society. At the same time, however, as Etherington has recognised, "a substratum of guilty fear may be recognized as part of the more or less constant psycho-pathology of a racist society, a fear which can rise to the surface as a collective panic whenever sufficient cause threatens the colonists' shaky sense of being in control." <sup>(324)</sup> The question of effective and enduring control over the region's African (and Indian) people was uppermost in the minds of Natal's white colonists. Events which appeared to threaten that control, such as an increase in African crime against the persons and property of the white population, alarms across the border, the influx of unfamiliar migrant workers, the importation of firearms, economic competition from African rivals and periods of economic depression, gave rise to a rape crisis in which a wide range of non-sexual anxieties was translated into an emotional neurosis about the dangers of sexual attack. Fears of sexual attacks on white women, which implied that the males of the subject race had lost respect for the dominant race, represented the extreme limits of white male fear; loss of control over the African race would mean losing control over their most valuable property, their women. When circumstances changed to restore a sense of security, the rape crisis subsided. But because the contradictions implicit in the colonial situation were permanent, rape scares recurred at irregular intervals, such as 1886-7 and 1890-2 (a minor scare). <sup>(325)</sup>

By mid-1872 the worst of the rape scare crisis was over and colonial Natal was able to sink once more into a period of apathetic slumber relatively undisturbed by African sexual aggression. If the colonial press is any yardstick, the remainder of the decade was characterised by an increasing prevalence of prostitution, particularly among the region's black population. A society, which had been preoccupied by "kafir outrages" for the past six years, now turned its attention to another social ill, which also appeared to threaten, at least occasionally, the stability and safety of the white man's existence in Natal.

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<sup>323</sup>. N. Etherington, 'Rape Scare', *op. cit.*, p. 52.

<sup>324</sup>. N. Etherington, 'Rape Scare', *op. cit.*, p. 53.

<sup>325</sup>. *Ibid.*

The editor of the Natal Witness drew attention to African prostitution in Maritzburg during the early 1870s. He described "numerous bands of gaudily as well as wretchedly dressed and utterly shameless black women and girls walking the streets" and claimed that since the commencement of 1872 prostitution had made more vigorous strides than drunkenness among the local African population. <sup>(326)</sup> Like drunkenness, prostitution was seen as the inevitable result of the conflict between barbarism and Anglican civilization: "... wholesale prostitution appears to be, unfortunately, an inseparable concomitant of that transition period when the restraints of barbarous customs have lost their power, and the regulating forces of a higher mode of life have not acquired sufficient strength." <sup>(327)</sup> In his estimation, the evil of African prostitution was rapidly increasing and was sure "with quick acceleration to sap the foundations of native social law, and place a large number of women entirely beyond its restraints." <sup>(328)</sup> The Native Department was praised for retarding the growth of prostitution by resisting the civilizing of African people. There did, however, appear to be at least one advantage to African prostitution: in the words of the editor of the Natal Witness, "It is, however, not an unmixed evil, for outrages upon white females have considerably decreased." <sup>(329)</sup> From this perspective, therefore, African prostitution appeared to be a necessary evil in order to protect innocent white women and girls from the sexual passions of the "kafir savage". This might explain some of the reluctance of Natal's white authorities to confront the problem of African prostitution in a more aggressive manner.

In 1875 the Durban Town Council passed bye-laws to deal with the problems of social diseases and disorderly houses. This is a clear indication that these social problems were becoming fairly serious. The new bye-laws read as follows:-

"63. No person shall carry or expose within any street or highway in the Borough any person afflicted with a contagious or infectious disease."

"64. No person shall keep a disorderly house, a bawdy house, or a gaming house within the Borough, nor shall any house be let for such purposes." <sup>(330)</sup>

<sup>326</sup> . NW, 31 Dec. 1872.

<sup>327</sup> . Ibid.

<sup>328</sup> . Ibid.

<sup>329</sup> . Ibid.

<sup>330</sup> . General and Police Bye-Laws - Borough of Durban, NGG, 2 March 1875. These appear to be the first bye-laws for Durban. Bye-Laws for the City and Borough of Pietermaritzburg were published in March 1874, but did not mention contagious diseases or brothels.

By 1877 the alleged prevalence of prostitution in Maritzburg and the accompanying diseases prompted the Town Council to frame a bye-law to deal with the problem. The acting Resident Magistrate, R.I. Finnemore, had complained that, in terms of the existing legislation, he was almost powerless to take action against houses of ill-fame. <sup>(331)</sup> He said that brothels existed in Maritzburg in large numbers and that they were a fruitful source of disease and crime. <sup>(332)</sup>

Sentences for keeping a house of ill-fame or a "den of infamy" were quite lenient, suggesting that this offence was not perceived in such a serious light by the white authorities and residents. In most instances black prostitution did not have any direct effect on the lives of the white population; on the occasions when it did disturb white residents, they were vociferous in their calls for a tighter control over black prostitutes and brothel-keepers. In one such case, a woman called Sophia Maggot, described as a "notorious character", was charged under the 64th. section of the bye-laws with keeping a house of ill-fame. Superintendent Alexander stated that the woman had been represented to him as a prostitute, living in a room at the end of West Street. He allegedly "knew for a fact" that her room was used as a brothel and that several disturbances had taken place there lately. Alexander had sent the woman a notice of warning, but she had failed to terminate her operations. Several witnesses were called to support the charge and the woman was found guilty, and fined 5s.. <sup>(333)</sup> She paid the fine on the spot. In other cases, Elizabeth Matterson, charged with keeping a disorderly house, was fined £1, with the option of a week's hard labour, while James Smith, charged with his wife for the same offence, was fined £2, with the option of 14 days' imprisonment with hard labour. <sup>(334)</sup> The penalties for keeping brothels appeared to become more severe towards the end of the decade; for example, Elizabeth Wilson, a coloured St. Helena woman, and Sarah Bennett, a half-caste, were each fined £3 for keeping a brothel at the Point, while Priscilla Mayes, a white woman, charged with keeping a disorderly house in Field Street, went to gaol for a month in default of paying a fine of £3. <sup>(335)</sup> A West Indian by the name of McCaul was fined £10 for keeping a brothel. The courts did not

<sup>331</sup>. At the time, the only mention made of brothels in the town's bye-laws was contained in three words tacked onto the 29th. bye-law. Record cannot be found of the new bye-law until it was re-enacted in 1880.

<sup>332</sup>. NW, 19 Oct. 1877.

<sup>333</sup>. NM, 3 Oct. 1876. Richard Alexander was Superintendent of Durban's Borough Police from 1876 to 1906, a period of 30 years. He was highly regarded as an efficient and zealous officer of the law. As such, he exercised a determined influence, both on the Durban Town Council (with his reports, recommendations and hard-hitting rhetoric) and in the Legislative Council, on a wide range of issues.

<sup>334</sup>. NM, 28 Dec. 1878.

<sup>335</sup>. NM, 1 Oct. 1879, 20 Nov. 1879.

appear to discriminate between white and black prostitutes and brothel-keepers. More often than not, brothels were raided, not because of complaints of immorality, but because they were usually places where a great deal of drinking took place and the ensuing din caused irate residents to call in the police. Prostitutes were usually charged, not with the crime of prostitution, but with being drunk and disorderly, disturbing the peace, indecent conduct or foul language. One of these women, who made frequent appearances before the courts, was Annie Hazel, described as "a notorious prostitute".<sup>(336)</sup> Fines of up to 14s. or a fortnight in prison failed to deter women such as these from pursuing their trade. Sarah, Annie Smith and Antonio were other names which made frequent incursions into the colonial press on charges of being notorious and incorrigible women of ill-fame. The people of Maritzburg even collected money to send Susan Russell, a notorious character, out of town, but she appeared to resist their persuasions. Lizzie, a hottentot prostitute, also made numerous appearances before the courts; described as "a muscular woman", she was once imprisoned for a month with spare diet for tearing the clothes off a policeman's back.<sup>(337)</sup> White Natalians never called for harsher penalties to be imposed on prostitutes and did not appear to show much interest in this social problem.

In a more serious case, a "wretched" white woman called Weaver was charged with keeping a disorderly house at Stamford Hill, Umgeni Road. The woman's 16 year old daughter testified that her mother had been using her to commit immoral acts. Incredibly, the mother had, on a previous occasion, taken her daughter to court on the grounds that she had run away and had secured a court order forcing her to return home. The girl expressed the wish to return to England, where she had some respectable relatives with whom she could stay and through whom she hoped to gain some respectable employment. The judge subsequently overturned the order and sentenced the woman to be imprisoned for three months or to pay a fine of £10. The Natal Mercury regarded the case as "one of the most disgraceful which has ever come to our notice" and said that the evidence was not suitable for publication.<sup>(338)</sup> Despite the apparent seriousness of the crime, the sentence is very lenient compared to sentences handed down for other sexual crimes such as "kafir outrages". Prostitution never managed to arouse the same emotions as those whipped up by the threat of being sexually molested by a black 'barbarian'.

The majority of brothels appear to have been situated in the Point area of Durban and a number of their proprietors were brought before the courts during the 1870s.

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<sup>336</sup>. NM, 9 July 1878.

<sup>337</sup>. NM, 7 Oct. 1879.

<sup>338</sup>. NM, 5 May 1877, 17 July 1877.

For example, Magistrate Titren fined two African women £3 each for keeping a brothel at the Point, but since the money was not forthcoming, he sent them to gaol for a week. <sup>(339)</sup> The West End of Durban also contained a number of these establishments. An American called Carrington, who was a baker by trade, and an Indian woman were charged with keeping a brothel at the West End, the place being described as "a most notorious establishment". <sup>(340)</sup> The man was fined £5 and the woman £2. In another case involving the West End, Samuel Macoli, a West Indiaman, was charged with keeping a notorious house and was fined £10 or two months' imprisonment. <sup>(341)</sup> In court it was revealed that he had been conducting the brothel under the guise of an eating and lodging house, and he had been warned about the serious nature of his business in the past. Superintendent Alexander stated that he had received a number of complaints with regard to the house and on various occasions, on looking through the window, he had seen people drinking and behaving in a riotous manner. The prisoner's wife was an Indian woman, described as "a most abominable character". <sup>(342)</sup>

Black and white prostitutes sometimes operated from the same houses. One such "Den of Infamy" was discovered close to the most fashionable part of Durban, at the foot of the Berea. A Mrs. Leathorn had apparently leased a small brick building to an African, who lived there with a host of prostitutes, both black and white women, at his call. At this house stolen property was allegedly received and loafers and notorious thieves were harboured. The Natal Witness described this brothel as "a den of the worst possible description" and expressed surprise that such a place should be found so close to a civilized town like Durban. <sup>(343)</sup>

White men were not averse to visiting the dens of African prostitutes. In one such case, an African man called Matubane was charged with keeping a disorderly house on the Berea flat. Constable Unger, who had raided the man's hut, had found several white men there with hottentot and African women, conducting themselves "in the most immoral manner". The magistrate fined the defendant 5s. and did not even mention the men who had been frequenting the hut. <sup>(344)</sup> This was the usual course of action; prostitutes and brothel owners were punished by the courts, while the men who were utilising these facilities were allowed to escape any punishment. In one of the very few cases ever reported in the colonial press, a white man, who had been found in the company of one Martha Burn, a prostitute, was charged with

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<sup>339</sup> . NM, 19 Sept. 1879.

<sup>340</sup> . NM, 13 Sept. 1879.

<sup>341</sup> . NM, 6 August 1879.

<sup>342</sup> . Ibid.

<sup>343</sup> . NW, 25 Feb. 1876.

<sup>344</sup> . NM, 9 July 1878.

encouraging prostitutes and was fined the small sum of 5s.. He was warned that he would be named in print if he committed a second offence of this nature. <sup>(345)</sup> An African, who was convicted of using indecent language against an African woman in the street, received a more severe penalty than the man above who was guilty of encouraging immoral behaviour, namely 10s. or three days in prison. <sup>(346)</sup>

Some shocking cases were reported in the colonial press. John Brotherton, a German, who was described as "a despicable character", and William Allen, a Cape coloured, were charged with creating a disturbance. The German had been living upon the money earned by a hottentot prostitute called Minnie Smith who was only 15 years of age. The two men had attacked a soldier, who had come to visit the girl, in "a most brutal manner". <sup>(347)</sup> Describing Brotherton as "a mean wretch", the magistrate fined him £10 and his accomplice £5. <sup>(348)</sup> In default of payment, the former went to gaol for three months, and the latter for six weeks, both with hard labour.

The dismal stories of white prostitutes also reached the colonial press. One such woman came out to Natal from England in 1873 to work as a domestic servant, but she had come into bad company in Maritzburg, had left her employ and since that time had lived her life as a prostitute. Eventually her wayward lifestyle brought her before the courts in Durban in 1878, when she was indicted on a charge of drunkenness. She had been found lying in the cemetery in a helpless state of intoxication and when taken to the station-house, had shown symptoms of *delirium tremens*. Since moving from Maritzburg to Durban during the previous month, the woman had been living at the back of the Camp, where she serviced the soldiers stationed at the barracks. The woman showed a great deal of remorse and the magistrate, taking a lenient view of her case, dismissed her with a caution. <sup>(349)</sup>

Even though there were differences in status amongst the white population and many white females were employed in the service sector, particularly as domestics and governesses, they all benefitted from their racial and cultural affiliation to the ruling class. Just as "fallen" women in Britain were seen as threatening the moral fabric of society, so white women in Natal who deviated from the path of Victorian morality were perceived as a threat to the authority and continued superiority of the white ruling race. <sup>(350)</sup> Cases of white prostitution, such as that described above,

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<sup>345</sup>. NM, 9 Feb. 1875.

<sup>346</sup>. NM, 25 May 1875.

<sup>347</sup>. NM, 24 Oct. 1879.

<sup>348</sup>. Ibid.

<sup>349</sup>. NM, 2 Jan. 1878.

<sup>350</sup>. J.D. Beall, 'Class, Race and Gender', pp. 130-1.

were regarded as scandalous since they appeared to threaten the respect which Natal's African population showed towards their white masters.

All this immoral living inevitably led to an increase in the prevalence of social diseases in the colony. The white authorities, however, were extremely reluctant to acknowledge the growing extent of this social problem and preferred instead to sweep it under their Victorian carpets in the hope that the problem might go away. Too often, the thinking and actions of Natal's white settler community were governed by the premise, "Out of Sight, Out of Mind". To an extent, the fact that the overwhelming majority of sufferers belonged to the black races explains the disinterest which white Natalians showed in the question of social diseases. The humanitarian instincts of the white settlers usually did not extend beyond the confines of their own Anglo-Saxon race. The following table illustrates the number of cases of venereal diseases treated at Durban Hospital and Pietermaritzburg's Grey's Hospital during the period 1869-1879 and the percentage which these diseases constituted of the total cases of all diseases treated:- <sup>(351)</sup>

Cases of Venereal Disease treated at Durban  
and Grey's Hospitals (1869-1879)

	<u>Durban</u>	<u>Grey's</u>	<u>Total Venereal</u>	<u>Total Cases</u>	<u>Percentage Venereal</u>
1869	21	15	36	403	8.9
1870	15	37	52	441	11.8
1871	12	33	45	478	9.4
1872	40	15	55	437	12.6
1873	42	17	59	607	9.7
1874	27	23	50	596	8.4
1875	50	26	76	664	11.4
1876	42	26	68	575	11.8
1877	52	27	79	823	9.6
1878	54	79	133	975	13.6
1879	50	99	149	1 167	12.8
	(405)	(397)	(802)	(7 166)	(11.2)

In 1870 at Grey's Hospital more cases of syphilis (37) were treated than any of the other 45 listed diseases. This constituted 15% of all cases and included one death as a result of the disease. By comparison with Maritzburg, however, only 15 cases of venereal disease were treated at the Durban Hospital or 7.7% of all cases. <sup>(352)</sup> The Blue Book for 1871 reports that "native wards" were being built at Durban

<sup>351</sup>. The figures for Durban are all listed under venereal disease in the Natal Blue Books, while those for Grey's include syphilis, gonorrhoea and bubo.

<sup>352</sup>. NBB, Vol. 1, 1870.

Hospital at an estimated cost of £345 11s. 10d. <sup>(353)</sup> Segregation between the races was a cornerstone of the white Victorian existence in the colony and with the increase in social diseases such separation would have been considered even more important than in the previous decades.

By 1872 the number of cases of venereal disease treated at Durban Hospital (40) was more than three times the number treated in the previous year, comprising 14.5% of all cases. Despite this, the Annual Report of the Durban Colonial Government Hospital by the District Surgeon, Wm. H. Addison, makes no mention of the large number of cases of venereal disease. <sup>(354)</sup> Once again, in 1873, despite an increase in the incidence of venereal disease, the Annual report of the Durban Hospital makes no mention of the disease. <sup>(355)</sup> By 1874 venereal disease was the fourth most prolific disease treated at Durban Hospital, but was still not considered worthy of a mention in the Hospital's annual report. <sup>(356)</sup> The following year saw 50 cases of venereal disease treated at Durban Hospital, the highest incidence for any year since records were kept, but the District Surgeon failed to offer any comment or recommendation on the subject. <sup>(357)</sup> Throughout the remainder of the decade, the number of cases of venereal diseases treated at Durban Hospital remained relatively constant and continued to constitute a social problem of fairly serious proportions. The District Surgeon, however, failed (or refused) to recognise the urgency of the situation and never bothered to discuss (or even mention) the social diseases in his annual reports.

Venereal diseases were also becoming more serious in Pietermaritzburg. Although the number of cases treated at Grey's Hospital decreased between 1870 and 1877, by 1879 they had increased significantly, making up 18.9 % of all admissions. Nevertheless, the Surgeon-General, in his wisdom, did not consider that these diseases warranted any comment. The large increase during the years 1878-9 can be attributed to the influx of white troops into Natal for the Anglo-Zulu War of 1879.

By 1879, therefore, it is clear that the incidence of venereal disease had increased in both Durban and Maritzburg; at the start of the decade, Grey's Hospital admitted 37 cases for these diseases, while by 1879 this figure had increased markedly to 99 cases. The number of cases treated at Durban Hospital had risen from 15 in 1870 to 50 in 1879. Throughout the 1870s the social diseases were among the most prolific

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<sup>353</sup>. NBB, Vol. 1, 1871. These were eventually completed in 1872 at a cost of £402 18s.

<sup>354</sup>. NBB, Vol. 1, 1872.

<sup>355</sup>. NBB, Vol. 1, 1873.

<sup>356</sup>. NBB, Vol. 1, 1874.

<sup>357</sup>. NBB, Vol. 1, 1875.

diseases treated at both these hospitals; at Maritzburg's Grey's Hospital these diseases ranked between first and third in terms of the prolificacy of all diseases treated, while at Durban Hospital they ranked between second and fifth. Between 1870 and 1879 venereal diseases constituted an average of 11.2% of all the diseases treated at Durban and Grey's Hospitals, a clear indication of the prevalence and serious nature of the disease. Despite the increasing incidence of such diseases and their prevalence when compared with other diseases in the colony, however, no attempt was made by either the Government of Natal or the various municipal authorities to address the question of social diseases. As suggested earlier, matters such as prostitution and venereal diseases were embarrassing to the Victorians and they usually chose to avoid them if at all possible. The fact that these diseases afflicted Natal's black population to a greater degree than the white population made such avoidance much easier on the conscience. In short, the white authorities did not care sufficiently about their black brethren to take the necessary remedial action.

With the rape scare of 1866-71 long over and with race relations in Natal moving through a period of relative calm, the colony was able to pause for a moment to consider the future position of Africans in the towns. Thomas Joyce, the Superintendent of Police and Inspector of Nuisances for Pietermaritzburg, proposed that the residences of the coloured population (Africans and Indians) should be removed from the town. He brought forward a number of reasons as to why he considered this to be an essential course of action:-

- 1) Africans in the towns developed habits of heavy drinking.
- 2) As the minds and tastes of men became more refined, so their physical health became more delicate and less capable of withstanding disease. The implication was that town life would make Africans soft and unsuitable for hard, manual labour.
- 3) The well-known aversion of blacks to the use of latrines and the danger to health arising therefrom.
- 4) The great danger posed to white females "from the presence in our midst of a barbarous population, consisting almost entirely of males, and unrestrained by any feelings of virtue or fear of punishment, the latter point being abundantly proved by the growth of the evil, and the frequent failures of justice." <sup>(358)</sup>
- 5) The insanitary living conditions of these races, particularly the Indians: "... history shows us that wherever these people exist, there are to be found cholera, diarrhoea, dysentery, and other diseases which are notoriously fostered and

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<sup>358</sup>. Report of Inspector of Nuisances. NW, 4 March 1873.

fed by the accumulation of filth, which is found to be inseparable from congregated masses of the black races." <sup>(359)</sup>

Joyce reported that the nearest boundary of the Borough Lands was at least three kilometres from the town itself, while on one side at least a space of eight kilometres or more was available. Locations could thus be formed "at a safe distance", in which all Africans, Hottentots and Indians would be compelled to live unless they were in service in the town and had permission to sleep on their employers' premises. Only the latter would be allowed within the precincts of the city in the absence of daylight. Joyce believed that the establishment of such regulations would "go far towards the removal of the evils above-mentioned, and have the effect of showing the coloured population the superiority of the white (and civilized) race, and thereby do much to take away that familiarity which at present too often, it is to be feared, breeds contempt." <sup>(360)</sup> He concluded that any expense attendant upon the carrying out of these suggestions would be more than counteracted by the decrease of crime and sickness and the increase in the value of all landed property within the city.

Reports of "kafir insolence" seemed to reinforce Joyce's recommendation that Africans should remain outside white towns as much as possible. A correspondent to the Natal Witness complained that "the conduct of the natives about the city [Pietermaritzburg] is rapidly becoming so insolent and unbearable." <sup>(361)</sup> He regarded African insolence as a "growing evil", a phenomenon which required "decisive steps" to put an end to it. <sup>(362)</sup> The Town Bush Valley, in particular, was reported to be "infested with a horde of these idle vagabonds": "They stroll along the road by day, and unsettle the minds of our steady working Kafirs; at night they sponge or steal in the outskirts. Our goods and the persons of our children are at the mercy of these men. They have no home, no occupation, and seem to be responsible to no one. When absolutely pressed by hunger, they will extort a shilling from the merchant or storekeeper by lazily loading a wagon, or pushing a truck for half-an-hour." <sup>(363)</sup> The writer complained that whites were pushed off the footpaths by Africans who displayed a decided lack of respect. They also had to make way for "flaunting" African prostitutes. It was allegedly a "fact of hourly occurrence" that white ladies had to step on one side for the African; if she did not, she might be rewarded with "an insolent jostle, or a puff in her civilised face of foul tobacco-smoke." <sup>(364)</sup> In their belief that they were the superior race, the whites of

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<sup>359</sup> . Ibid.

<sup>360</sup> . Ibid.

<sup>361</sup> . NW, 9 Dec. 1873.

<sup>362</sup> . Ibid.

<sup>363</sup> . Ibid.

<sup>364</sup> . Ibid.

Natal did not expect to have to share 'their' footpaths with 'savages' who sometimes seemed to forget their 'rightful' position in life.

As the towns drew more and more Africans and Indians into their orbit, an attempt was made to check the development of the growing class of independent day labourers. These "togt" workers enjoyed a considerable degree of freedom and were able to bargain successfully for higher wages. Theophilus Shepstone, the Secretary for Native Affairs, introduced a measure designed to control this group of Africans, alleging that such independence posed a number of dangers for the settler community: "Lately the idea of day "togt" or job-work seems to have been imported from the Cape Colony ... This system is calculated to produce, and does produce, insecurity in the towns, while it causes inconvenience and loss to the householders ... It discourages orderly and regular monthly service because it exhibits to natives so employed comparatively large monthly gains, coupled with an attractive but unwholesome liberty ... [which] threatens, if not checked [to create] a large but fluctuating native population living in the towns, but having no home in them, subject to no restraint ... combining to enrich themselves at the expense of householders ..." <sup>(365)</sup>

He argued further that the only justification for the presence of Africans in the towns was to render service as labourers, but even their presence in this capacity was damaging to settler interests: "They come and go when they please; no official notice is taken of their presence; no one knows where they come from, where they go to, or to whom they belong; they feel no restraint in the midst of temptations to evils ... Such a condition must produce demoralization, lead to drunkenness, and tempt to every form of crime." <sup>(366)</sup>

Shepstone's answer to the question of increasing African urbanisation was to attempt to control "togt" labour in the belief that these 'aliens' had no place in 'white' towns, which were to remain the domain of Natal's white population. His proposal entailed the essential features of future South African urban native policy:

1. No African to live in town unless he
  - a. owned or rented quarters
  - b. was in monthly service
  - c. registered, paid a fee, and wore a "togt" badge;

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<sup>365</sup>. Shepstone Memorandum, 26 May 1873, MM, Dbn, 1873; and Laws Relating to the Borough of Durban (Durban, 1903), pp. 135-7. cited in M.W. Swanson, 'The Urban Factor in Natal Native Policy, 1843-1873', Journal of Natal and Zulu History, Vol. 3, 1980, p. 12.

<sup>366</sup>. Ibid, p. 13.

2. Workseekers to have 5 days' search time;
3. A "togt" man must render service on demand if not already employed, and at the wage set by proclamation;
4. The badge must be surrendered upon leaving service, leaving town, or entering monthly service;
5. Violators to be fined 20s or given 3 months' hard labour, and be banished from town. <sup>(367)</sup>

Shepstone justified his intervention in urban affairs by noting his concern for the effect that towns would have on native policy as a whole: "It must be remembered that the towns are the points at which most contact takes place between the races; that this fluctuating population in them is the main channel through which impressions of the white man are conveyed to the mass of the native population outside." <sup>(368)</sup> His remarks drew explicit attention to the intimate connection of urban policy with what Swanson has called "that great triad of the native question in colonial Natal: security, the Shepstone system of rural segregation, and the supply of labour": "The object of these regulations is to check several growing evils, among which are - liberty that is becoming licentious, and therefore injurious to all in the towns, both black and white; the creation and communication to the surrounding native tribes of vicious impressions and ideas detrimental to their effective government; combination to exact from the necessities of employers higher wages than as a rule the service is worth, and direct discouragement to the natural and desirable relation of master and servant." <sup>(369)</sup>

Although the togt system as a means to control the terms of black presence in the towns was frustrated over the decades ahead by the limited powers of government to compel both African employees and white employers, it does reveal most clearly the almost pervasive feeling among white settlers that Africans were unwelcome visitors in 'white' towns and needed to be controlled by every mechanism available. Africans who contravened the togt regulations were prosecuted throughout the period under review. The following table illustrates the number of Africans convicted for contraventions of the Togat Law in the Borough of Durban during the period 1874-1894:- <sup>(370)</sup>

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<sup>367</sup> . Ibid.

<sup>368</sup> . Ibid.

<sup>369</sup> . Ibid, pp. 13-14.

<sup>370</sup> . MM, Dbn, 1874-1894.

Contraventions of Toqt Law in the Borough of Durban (1874-1894)  
(Africans)

1874	72	1875	220
1876	117	1877	349
1878	103	1879	120
1880	108	1881	139
1882	107	1883	110
1884	93	1885	79
1886	106	1887	115
1888	85	1889	99
1890	89	1891	165
1892	178	1893	130
1894	187		

Although never reaching the crescendo of the rape scare period of 1869-1872, indecent assaults and the occasional rape were still committed throughout the remainder of the 1870s. Sentencing was generally more lenient than during the period of panic, reflecting the more relaxed emotional state of the white settler population. For example, an African called Umdinga, charged with having assaulted a young married white woman with intent to commit a rape, or with intent to commit some other crime, was sentenced to two years' imprisonment and 25 lashes on the second charge. <sup>(371)</sup> If this crime had been committed during a rape scare crisis, the man would probably have been found guilty on the first charge and would have received a significantly more severe punishment. Pemema, charged with having assaulted a domestic white female servant, was discharged, the judge ruling that the evidence against the man was not sufficient. The woman swore that the prisoner had come into her bedroom during the night and had lifted the bed clothes off her; her screams had forced him to beat a hasty retreat. <sup>(372)</sup> During a rape scare period this evidence would probably have been enough to secure a conviction. In another case, Uselshala was convicted of house-breaking with unlawful intent, having been found at night under the bed of a white girl; he was sentenced to five years' imprisonment and 50 lashes. <sup>(373)</sup> Even this sentence is relatively lenient compared to some of the sentences handed down during the rape scare of 1869-1872. In another case of this nature, Umgumbuno, charged with entering the bedroom of a St. Helena girl, was sentenced to three months' imprisonment and 12 lashes. <sup>(374)</sup> In the context of colonial Natal, this sentence is extremely lenient; the fact that the crime took place outside of a rape scare period, and that the victim was not a white woman, helps to explain the sentence handed down by the court. In a rape case, Manaba was found guilty of having committed a rape; the judge decided to act on

<sup>371</sup>. NM, 22 June 1878.

<sup>372</sup>. NM, 17 Sept. 1878.

<sup>373</sup>. NM, 23 Sept. 1875.

<sup>374</sup>. NM, 26 June 1878.

the jury's recommendation to mercy and sentenced the man to two years' imprisonment with hard labour. <sup>(375)</sup>

Whites continued to complain that too frequently Africans who were convicted of attacks on white women were not given sentences which were likely to deter them from committing similar crimes in the future. The courts were sometimes criticised for being too squeamish in administering corporal punishment. It was felt that "flogging is much the best panacea for an evil which cannot fail to grow if it be not checked by deterrent sentences. In uncivilised communities, where the savage elements preponderates (sic), as it does here, the law cannot punish too severely crimes of this description." <sup>(376)</sup> The following case was cited as an example of this leniency; a Basuto man, who assaulted an African girl under twelve years of age four times, was sentenced to two years' imprisonment with hard labour.

Cases of apparently inconsistent sentencing can also be discerned during these years. For example, a Portuguese African was sentenced to four years' imprisonment with hard labour and 36 lashes for assaulting an African woman with the intent to commit a rape, <sup>(377)</sup> whereas a group of five Indian men, who were found guilty of raping an Indian woman, received sentences ranging from three years' hard labour and 30 lashes to five years' hard labour and 30 lashes. <sup>(378)</sup> The latter sentence is extremely lenient; if the victim had been a white woman, there can be little doubt that a sentence of death would have been imposed on all the assailants. Like the white settlers of colonial Natal, local magistrates were, to some extent at least, victims of their own upbringing and their own particular position in society. Their white skin and the peculiar privileges which it granted them meant that their judgement was sometimes clouded, and, therefore, inaccurate. This places a serious question mark against the integrity of the Natal judiciary in certain cases.

In another extraordinary example of inconsistent sentencing, Upanga, for having committed a rape on an African woman, was sentenced to five years' imprisonment with hard labour, while at the same criminal session, Majondo, for the crime of theft, also received a five year prison term. <sup>(379)</sup> Majondo had stolen £3 10s., a snuff box, a stocking, a handkerchief and a purse from a fellow African. He admitted a previous conviction.

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<sup>375</sup>. NM, 25 Nov. 1876.

<sup>376</sup>. NM, 29 April 1878.

<sup>377</sup>. NM, 8 May 1879.

<sup>378</sup>. NM, 19 June 1879.

<sup>379</sup>. NM, 16 August 1878.

Missionaries sometimes complained that African Christians were subjected to "abominable influences" and that these should be borne in mind before one criticised these people for being worse than other men. <sup>(380)</sup> A missionary from Verulam related a story in which two Englishmen had arrived at his station and attempted to purchase from the headman the use of some girls in exchange for a bottle of rum. The headman had apparently resisted the offer and had "shown them their disgrace, and reminded them of their *colour*." <sup>(381)</sup> The missionary claimed that this was not the first time that his station had experienced a visit of this sort. It was, in his opinion, no wonder that even Christian Africans sometimes went astray when one considered the extent of immorality in Natal colonial society.

An examination of the convictions for sexual crimes committed in the Borough of Durban reveals that the threat of "kafir outrage" might not have been so pressing as the colonists perceived. The table below reflects the number of convictions for sexual crimes committed by Africans in the Borough of Durban during the period 1870-9:- <sup>(382)</sup>

Convictions of Africans for Sexual Crimes  
committed in the Borough of Durban (1870-9)

	<u>Indecent Exposure</u>	<u>Indecent Assault</u>	<u>Rape</u>	<u>Sodomy</u>	<u>Bestiality/ Unnatural Crime</u>	<u>Total</u>
1870	1	1	0	-	-	(2)
1871	3	4	1	-	-	(8)
1872	0	0	6	-	1	(7)
1873	-	-	0	0	0	(0)
1874	-	-	1	-	-	(1)
1875	-	-	0	-	-	(0)
1876	-	-	1	-	-	(1)
1877	-	-	1	-	2	(3)
1878	-	-	2	-	0	(2)
1879	-	-	0	-	0	(0)
	(4)	(5)	(12)	(0)	(3)	(24)

Although the details are unavailable, the majority of the above crimes were committed against the town's white residents. The figures reflected above do not suggest that Durban's African male population posed a serious sexual threat to white women and children living in the area. On the contrary, with the exception of 1872, coming just after the 1866-71 rape crisis, there is almost an absence of sexual

<sup>380</sup>. NM, 9 Feb. 1875.

<sup>381</sup>. Ibid.

<sup>382</sup>. MM, Dbn, 1870-1879.

crimes committed by the borough's African men. <sup>(383)</sup> The colonists would have argued that the criminal statistics do not present an accurate picture of the scenario which the town of Durban experienced. They would have pointed to the inefficiency of the police who failed to track down the offenders. Magistrates would have been severely criticised for failing to hand down convictions in certain cases. They would also have claimed that many women refused to report indecent assaults because of the stigma and embarrassment which society attached to such happenings. They would even have drawn attention to the difficulties of positively identifying a black face during the hours of darkness. While there may have been an element of truth in some of the foregoing allegations, it is an indisputable fact that the criminal statistics do not confirm the alleged sexual aggression of the black man towards white women and children. Rather, they suggest that the widespread fears of African sexuality held by Natal's white population may have been largely illusory, a product more of their anxious state of mind (caused by the severe economic depression of 1865-9 and inherent racial fears) than the concrete actions perpetrated by African assailants.

During the same period (1870-9), only three whites and two Indians were convicted for committing sexual crimes in the Borough of Durban:- <sup>(384)</sup>

Whites	1872: one conviction for sodomy. 1874: one conviction for rape. 1878: one conviction for an unnatural crime.
Indians	1871: one conviction for indecent exposure. 1875: one conviction for rape.

Thus Africans were convicted eight times more than whites and 12 times more than Indians for sexual crimes committed in the Borough of Durban during the 1870s. In the eyes of Natal's white colonists, these ratios would have merely confirmed that African men were sexually aggressive and posed a serious danger to all white women and children. The relatively high rate of conviction for Africans needs to be explained briefly. Firstly, an African who was brought before the court charged with having committed a sexual crime against a white woman or girl was more likely to be convicted than any other sexual offender (e.g. a white or Indian man, or an African who had sexually assaulted a black woman.). Secondly, African males who came to live in towns like Durban had been released from all the traditional restrictions

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<sup>383</sup>. The rape crisis of 1866-71 finally died out in about June 1872.

<sup>384</sup>. MM, Dbn, 1870-1879.

imposed by their tribal societies on their sexual behaviour, but had not been subjected to any new restraints. They thus tended to commit sexual crimes and engage in immoral behaviour to a far greater extent than they ever had done before the arrival of the white man in Natal.

The first half of the new decade (1880-1884) saw the commission of social offences which had become common in previous decades, viz., brothel-keeping, indecent assaults and assaults with intent to commit a rape. The term "social pest" once again became popularised to describe the status of Africans in white colonial society. <sup>(385)</sup> These crimes, however, while fairly widespread on occasions, did not appear to threaten the fabric of society and the easy pace of colonial life continued, the morally upright managing to remain relatively aloof from the immorality of the few. Although there was no rape crisis in the early part of the 1880s, the perception still existed among many white colonists that the towns of Durban and Maritzburg, especially at night, were dangerous places for unescorted white women and girls. A resident of Maritzburg warned that parental watchfulness was doubly necessary at times like these, when "our towns swarm with strangers and riffraff of every description, and our daughters should be careful not to go to unfrequented localities without an escort." <sup>(386)</sup> He described the state of Maritzburg as being "in some respects worse than any garrison town in England" and expressed surprise at seeing several apparently respectable girls walking alone in the Park and on the outskirts of the town. <sup>(387)</sup> While this writer may have been guilty of exaggerating, there is no doubt that the white population often felt threatened by the presence of Africans in their midst. The halcyon days of undisturbed peace, safety and tranquility had long since taken flight from the Colony of Natal.

The white residents of Durban and Maritzburg complained frequently about instances of "kafir immorality" and their insanitary living conditions. For example, a correspondent to the Natal Witness complained about the tin shanties at the bottom of Longmarket Street which were allegedly "tenanted by loose characters, Kafirs, Coolies, &c." <sup>(388)</sup> The evenings, in particular, were described as "something fearful, venereal acts being even carried on publicly." <sup>(389)</sup> It was also believed that "these low, ill-ventilated, villainous huts, inhabited by people of such dirty, vicious habits"

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<sup>385</sup>. The term "social pest" had first emerged in the early 1850s, but throughout most of the 1860s and 1870s the term "kafir outrage" was generally preferred.

<sup>386</sup>. NM, 10 April 1880.

<sup>387</sup>. Ibid.

<sup>388</sup>. NW, 22 April 1880.

<sup>389</sup>. Ibid.

had more to do with the propagation of disease than the sluits or dirty back streets. <sup>(390)</sup> This was part of the "Sanitation Syndrome". Natal's white population perceived Africans and Indians as being not only morally depraved, but also as threatening the welfare of white society on the level of public health. Whites feared that the most dreadful diseases would spring up in *their* towns, engulfing them and perhaps even leading to the demise of the white race.

The Bye-Laws for Pietermaritzburg published in 1880 show seven clauses dealing with offences against decency and morality. The colony's white officials still regarded such issues as being of fundamental importance. These bye-laws were clearly aimed at controlling the immoral instincts of the black population, which was deemed necessary if the sanctity of the European way of life was to be preserved:-

60. This punished any person who exposed or attempted to sell obscene pictures or literature in a public place.
61. Punished any person who sang an obscene song, or wrote an indecent word, or used any obscene language in a public place or within the view or hearing of any person passing therein. It also punished anyone who used threatening or insulting words or behaviour in any public area whereby a breach of the peace might be occasioned.
62. Stated that no person, male or female, was allowed in a public place without being "decently clothed". Males had to be clothed in a shirt and trousers, covering them from the neck to below the knee. Females were required to be "fully covered" with some garment from the neck to below the knee. This bye-law did not apply to persons bathing at any place authorised by the Council.
63. No person might bathe, or wash clothes, or spread clothes to dry in any street or public place, except at places appointed by the Council.
64. Any person who encouraged or became involved in the fighting or baiting of any bull, bear, dog, or other animal, or cock fighting, was liable to a penalty not exceeding £5 for every such offence.
65. Any person who cruelly beat, ill-treated, overdriven, abused, or tortured, or caused the foregoing actions to occur, was liable to pay a penalty not exceeding £5 for every such offence.
66. The keeping of brothels or houses of ill-fame in the borough was declared to be illegal.

The penalty for contravening Bye-Laws 60, 61, 62, 63 and 66 was imprisonment, with or without hard labour and with or without spare diet, for any period not

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<sup>390</sup>. Ibid.

exceeding three months, or to pay a fine not exceeding £10, and costs. In default of payment of such fine and costs, the imprisonment clause would come into effect. <sup>(391)</sup>

The editor of the Natal Witness condemned the low state of social morality among the Indian population:

Every Coast Criminal Session that comes round brings us face to face with the fact that numbers of our Indian Immigrants are of a debased and degraded type. It is scarcely necessary for us to mention that with most colonists the word "Coolie" is synonymous with scoundrel. There is, we believe, hardly an employer of Indian labour who would be prepared conscientiously to state that five per cent. of his men are honest and trustworthy. An ordinary "Coolie" is, apparently, a rogue from the hour of his birth - lying and deception are the breath of his nostrils, and thieving and knavish tricks come to his hand like second nature. There is not a villany from petty larceny to murder that seems beyond the pale of the "Coolie's" code of morality. Their crimes - particularly their murders - are of the most cold-blooded and horrifying description. Their brutal and cowardly attacks upon one another, as well as upon occasional Europeans, and the minor crimes they perpetually perpetrate, prove them to be of a class that knows no natural dread of evil-doing - a class that fears nothing but the strong arm of the law, and not even that at times. <sup>(392)</sup>

He claimed that (and most white settlers would have agreed with him) Indians who immigrated to Natal were "naturally rogues of the basest possible description", who were demoralising the local African who in his natural state was "invariably an honest man". <sup>(393)</sup> In his view, there was no doubt that the systematic larceny of which Africans in the Borough of Durban were being accused, owed its origin, directly or indirectly, to Indian contact and influence.

The subject of decadence was usually one that was close to the hearts of the Victorians who inhabited the Colony of Natal. Their attentions almost instinctively focused on the moral depravity of the region's black peoples since this decadence appeared to threaten the fabric and purity of a society which the white settlers were determined to uphold. During the early 1880s, however, it appeared that the morals of the white youth of Maritzburg were beginning to sink to unacceptable levels. In an editorial, the Natal Witness lamented the increasing decadence of the town's white youth, drawing attention to "the extravagance and dissipation which is commencing

<sup>391</sup>. Bye-Laws of the City and Borough of Pietermaritzburg, NGG, 6 January 1880.

<sup>392</sup>. NW, 23 Oct. 1880.

<sup>393</sup>. Ibid.

its dire work upon our boys." <sup>(394)</sup> It had apparently long been a "common and disgusting sight" to see a boy of twelve or thirteen smoking, but these boys were increasingly beginning to frequent canteens, billiard-rooms and gambling dens where they drank, smoked, used obscene language and gradually initiated themselves into every kind of vice. The paper urged these boys to be men, by resisting temptation, since cards, billiards, liquor and the like would only lead to "disgrace, ruin and shame". <sup>(395)</sup> The Natal Witness knew of "most hideous instances in this very City, of children of tender years being exposed to sights and scenes of vice, squalor, thievery, drink, and depravity generally, that could not fail to mar their morals." <sup>(396)</sup>

It was generally acknowledged that Maritzburg lacked the appropriate recreational facilities for the town's young people. While there were such places as the Young Men's Christian Association and the Natal Society's Reading Room, these places were unlikely to attract the class of young men who frequented the canteens. These men simply wanted to drink and play games with their friends. The only consolation for Maritzburg was that these decadent young men were allegedly not young colonists, but were the recently imported loafers, the man-about-town who lived on his wits and expectancies. The young men who went wrong were apparently those who had no social ties in Maritzburg, who belonged to and owned no one, who lived in hotels from months to years, and scarcely knew a soul in the place. The Natal Witness argued that it was "the prejudice, narrow-mindedness, meanness, and absurd conventionality of the so-called Society women of the place that does the mischief." <sup>(397)</sup> It considered that if the young women of Maritzburg would abandon their snobbishness and take some of these young men as their friends, then these men would in turn abandon their decadent ways because they would not wish to disappoint a young lady who cared for them. Teetotal drinking-rooms would never clean up the decadent white youth of Maritzburg.

The colony continued to frown upon the presence of brothels in the major towns, but the efforts of both the police and the courts were unable to extinguish this social phenomenon. The world's oldest profession remained a reality in both Durban and Maritzburg, and continued to provide a service for men who desired female company at a price. The colonial press reported a number of cases in which people were charged with contravening the bye-laws by keeping a disorderly house, but did not

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<sup>394</sup> . NW, 28 July 1881.

<sup>395</sup> . Ibid.

<sup>396</sup> . NW, 1 May 1880.

<sup>397</sup> . NW, 19 August 1881.

appear to be overly interested in the women who worked in these establishments. As in the previous decade, it was the brothel owners who often found themselves at the wrong end of the law, whereas the prostitutes remained free to pursue their dubious careers. People of all races (with the possible exception of Indians) and of both genders were involved in the business of brothel-keeping and the police appeared willing to charge those whom they suspected of keeping a disorderly house without paying respects to the so-called respectability of the European race. For example, August Francis, a Capetown man, charged with harbouring improper characters in his lodging-house, was fined £2 or in default 25 days in prison<sup>(398)</sup>; Antonio, another man from Capetown, received the harsher penalty of a £5 fine or two months' imprisonment for keeping a disorderly house at the Point<sup>(399)</sup>; Annas, a hottentot woman, for keeping a disorderly house on the Berea, was fined £3 or in default six weeks' hard labour<sup>(400)</sup>; an African named Steamer received a fine of £3 10s., or in default a months' imprisonment, for operating a disorderly house at the Point<sup>(401)</sup>; two African women, Annie and Lucy, for keeping a brothel in Victoria Street, were sent to gaol for six weeks with hard labour<sup>(402)</sup>; Sabobotigrati and John Delise, a Creole, charged with keeping a brothel in Pine Terrace, were each fined £10 or in default to be imprisoned for three months with hard labour<sup>(403)</sup>; Maria Struben, a white woman who had been convicted previously on a similar charge, was sentenced to a fine of £10 or three months' hard labour for keeping a disorderly house off West Street<sup>(404)</sup>; three white residents, Robert Brennan, Alice Hannah and Mrs. Plowman, charged with keeping a disorderly house in Queen Street, received the following penalties - the two former were fined £1 or 10 days' hard labour, while the latter, described by the magistrate as an incorrigible character, was sentenced to pay a fine of 30s. or to be imprisoned for 20 days with such hard labour as she was capable of performing.<sup>(405)</sup> As the foregoing cases reveal, these disorderly houses were spread throughout Durban, but the Point area in particular remained an abode for several characters of questionable morals. These houses were usually raided, not because the police suspected that a brothel was in operation, but because neighbouring residents complained to the police of the tremendous noise which often emanated from such establishments. Heavy drinking and riotous living were hallmarks of such places. This was often accompanied by outbursts of violence and murderous screaming. The term "disorderly house" appeared to cover a number of sins; not only did it include places of prostitution, but also virtually any place where

<sup>398</sup>. NM, 9 Feb. 1880.

<sup>399</sup>. NM, 11 Feb. 1880.

<sup>400</sup>. NM, 17 Feb. 1880.

<sup>401</sup>. NM, 27 April 1880.

<sup>402</sup>. NM, 30 August 1881.

<sup>403</sup>. NM, 25 July 1882.

<sup>404</sup>. NM, 4 Jan. 1883.

<sup>405</sup>. NM, 22 May 1883.

scenes of disorder were taking place. A disorderly scene would have been defined as a gathering of men and women, who were reputed to be of low character, and where a certain amount of drinking and loud conversational intercourse was taking place. Undoubtedly, many a house and person must have been falsely accused of being of low moral stature. There is no evidence that the police ever set traps in order to apprehend prostitutes and keepers of disorderly houses.

The above cases reveal that Africans, hottentots, Creoles and whites were involved in the business of keeping disorderly houses and that both men and women were implicated. The courts did not appear to discriminate against blacks in handing down sentences. Indeed, one of the most severe penalties imposed in a case of this description was given to Maria Struben, a white woman, who was fined £10 or three months' hard labour for a second conviction on the charge of operating a disorderly house. While the courts granted black people a fair deal in such cases, it is possible that, in certain instances, they may have discriminated against white keepers of disorderly houses. The white residents of colonial Natal were supposed to be the custodians of the Anglo-Saxon culture, a culture which whites considered to be superior in every respect to the culture of the local natives, the Nguni-speaking people. They believed that it was extremely important for the whites to provide a suitable example for the African population so that Africans might learn the ways of an 'advanced' culture and move away from the 'savage barbarity' of their own culture. Just as parents were expected to provide a good example for their children to follow, so whites were expected to be shining examples for the colony's African 'children' to follow (because of their ignorance of the Anglo-Saxon culture, all Africans were regarded as children by their white masters). For this reason, the courts were sometimes more severe on their own fellow whites who were deemed to be guilty of letting down the white race.

African hotels or eating-houses were often suspected of being disorderly houses. Whites resented the disorderly scenes which sometimes emanated from such establishments and were determined that African hotel keepers should conduct their businesses in a manner appropriate to the norms of white civilization. In one such case, an African called Moses was charged with operating a disorderly house from his eating-house. The magistrate stated that he had no objection to Africans having licenses for hotels, but that these places must be kept in an orderly and proper manner. The implication behind his statement was that Africans were acceptable as long as they acted like whites: "If natives came amongst Europeans they must behave like Europeans, and conform to their habits and customs. He was pleased to see natives abandoning their barbarous customs and coming to live among

Europeans, but when they open hotels they must conduct them properly." <sup>(406)</sup> Moses was fined £3 or in default 25 days' imprisonment, and his license was withdrawn. It is interesting to note that Moses launched a counter charge against a policeman for having gone to his house for an immoral purpose, but the judge considered that the evidence was clear as to the character of the parties who frequented this place and the frequent disturbances caused by its inhabitants, and therefore ruled that the policeman had only gone to the house to quell a disturbance. Once again, the perceptions of a variety of people - residents, the police and magistrates - were all important in securing a conviction against the alleged keeper of a disorderly house.

Complaints about African eating-houses also came from Maritzburg. Many of these houses were regarded as nothing better than brothels in which "abominable and indecent behaviour" prevailed to a large extent. <sup>(407)</sup> It was considered dangerous for a young white lady to go outside her own door after dark since she was certain to meet some of these drunken Africans whose chief delight was allegedly to use the most indecent language within the hearing of the girl. One of these "dens", situated on the corner of Berg Street, was considered to be a disgrace to any civilised community and to make matters worse it was being kept by a white man.

As stated earlier, the police showed great diligence in bringing the owners of disorderly houses to book, but appeared to be relatively disinterested in tracking down and charging the actual prostitutes or, "ladies of ill-fame", as they were commonly called. In one of the very few cases of this nature which was brought before the Durban Magistrate's Court in the early 1880s, three women, race unknown, were charged with being disorderly persons. The evidence was reported to be "of a most disgusting character, and utterly unfit for publication." <sup>(408)</sup> The magistrate, after severely admonishing and cautioning the women as to their future conduct, discharged them without imposing any penalty.

In 1883 the Superintendent of the Durban Borough Police, Richard Alexander, wrote to the Natal Mercury about a "most disreputable" white woman whom he had been trying to drive from the town for the past few years. <sup>(409)</sup> He described the woman as being "a tall rather well looking woman, about 27 years of age, and well educated", and claimed that her degrading acts were sufficient to demoralise a whole town. <sup>(410)</sup> He considered that the worst of African women was far more decent than this

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<sup>406</sup> . NM, 9 Feb. 1880.

<sup>407</sup> . NW, 24 Oct. 1882.

<sup>408</sup> . NM, 6 June 1882.

<sup>409</sup> . NM, 17 Oct. 1883.

<sup>410</sup> . Ibid.

woman. Alexander feared that the Africans would lose all respect for the white man if such characters were allowed to publicly display the most disgusting behaviour. He also feared that such degraded white women would influence black women to display immoral behaviour of a similar character. According to his records, this woman had been before the courts 26 times during the previous 15 months, nine of these cases being of a serious nature. He claimed that his police were so disgusted by the terrible abuse which she heaped on them, and the bad language she used through the streets when arrested and being led to the station, and the manner in which she "humbled" the court when brought up by her plausible excuses and abominable lies, that they would rather walk 20 miles than escort her 20 yards. Since the white race was supposed to serve as a role model for other, 'inferior' races, whites were ever anxious that certain low class characters, who unfortunately happened to have a white skin, would cause Africans to lose their respect for the white man and would cause the demoralisation of the African race.

The migration of African women to Durban for 'immoral purposes' was noted as early as 1884. The Natal Mercury reported that African women were appearing before the magistrates in the Borough and Magistrate's Courts "very much lately".<sup>(411)</sup> The charges laid against them were almost always those of drunkenness and vagrancy. These women were of low character, the magistrates often having to put up with more impudence from one of these women than from a dozen men. Their presence in the borough was regarded as "an evil spreading".<sup>(412)</sup>

Although prostitution and the keeping of disorderly houses became less significant, or less visible, as the decade wore on, the occasional case still came before the courts, a constant reminder to colonists that the world's oldest profession would never be condemned to extinction. These brothel-keepers came from across the racial spectrum. For example, a "European of respectable appearance, good address and education" was fined £3 or three months' imprisonment with hard labour for keeping a disorderly house in the borough.<sup>(413)</sup> In another case, two African girls, Kate and Annie, were each fined £5 or two months' hard labour for keeping a disorderly house on the Umgeni Road and refusing to leave when ordered to do so by the magistrate.<sup>(414)</sup>

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<sup>411</sup>. NM, 29 Oct. 1884.

<sup>412</sup>. Ibid.

<sup>413</sup>. NM, 6 Sept. 1887.

<sup>414</sup>. NM, 6 Dec. 1890.

The question of sexually transmitted (venereal) diseases was also considered to be a social problem of serious proportions. These diseases, particularly venereal disease, syphilis and gonorrhoea, were confined to a large degree to Natal's Indian and African populations. It was alleged that many of the Indians who contracted social diseases were infected by new arrivals from India. The same claim, however, could not be made for the African population. Natal's local African people had never suffered from these diseases until the arrival of the white man, who brought them (and strong alcoholic drink) out from Europe with him. This fact, however, was conveniently ignored by the colony's administrators who chose to condemn the immorality of black people while ignoring the legendary immorality of the European himself. The interest of whites in the social diseases was seldom a humanitarian one, aimed at exterminating dreaded diseases which caused much pain and suffering. On the contrary, their attitude was usually governed by self-interest; the problem of social diseases needed to be resolved because it could spread to the white population, and, on the economic level, diseased labourers were incapable of producing a good day's work. Whites who contracted these diseases were considered to be the dregs of society, unworthy carriers of a white skin. Although sexually transmitted diseases were not considered to be a serious problem among the white population, a surprisingly high percentage of whites (mainly men) picked up these diseases. It would not have been proper, however, for the dominant, superior race to admit that they were part of this social problem. For this reason, therefore, the impression was always given that social diseases were the preserve of the 'morally bankrupt' African and Indian.

In 1882 the Protector of Immigrants, S. Graves, reported that one of the Medical Officers had written to him claiming that in recent times venereal disease was seldom seen on any estate in his Circle. If a case did appear, it was at once attended to and if necessary sent to the Central Hospital. The officer had every hope that "in a few years hence, ... by keeping down this loathsome disease, the physical powers and stamina of the Indians will be materially and visibly improved." (<sup>415</sup>) The stamina of the Indian (his ability to carry out hard manual labour) had always been in doubt; for this reason, whites were determined to stamp out anything, such as social diseases and the abuse of alcohol, which threatened the physical well-being of the labour force.

In 1883 the new Protector of Immigrants, Louis H. Mason, reported that during the first half of the year there had been "very few" cases of acute venereal disease on any of the estates. But shortly after the Indians, who came by the *Merchantman*, had arrived on the various estates, new cases of venereal disease appeared, mostly

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<sup>415</sup>. NBB, Vol. 1, 1881.

among these men. It seemed likely the new arrivals had been responsible for the fresh outbreak of disease. <sup>(416)</sup>

In the same year the Surgeon of Grey's Hospital, James F. Allen, produced a detailed report on the cases of venereal disease treated at his hospital during the previous two years. <sup>(417)</sup> This was the first attempt in the history of the colony to analyse a disease which had been one of Natal's most prolific since at least 1869. He produced the following table for Grey's External Department (outpatients) for 1882:-

Venereal Diseases treated at Grey's Hospital  
(External Department) 1882

	<u>Syphilis</u>	<u>Congenital Syphilis</u>	<u>Gonorrhoea</u>	<u>Venereal Sores</u>	<u>Total</u>
White male	15	0	4	0	19
White female	0	0	0	0	0
African male	48	3	12	2	65
African female	27	0	5	2	34
St. Helena male	1	1	0	0	2
St. Helena female	1	0	0	0	1
Indian male	3	0	0	0	3
Indian female	3	0	0	0	3
Creole male	2	0	0	0	2
Creole female	0	0	0	0	0
	(100)	(4)	(21)	(4)	(129)

His figures reveal that Africans (99 cases) were the prime sufferers, followed by whites (19), Indians (6), St. Helenas (3) and Creoles (2). In particular, African men suffered the most (65 cases), followed by African women (34) and white men (19). No white woman was treated for a venereal disease.

The break-down for the number of cases of venereal disease treated at the Grey's External Department for 1883 is equally revealing:- <sup>(418)</sup>

<sup>416</sup>. NBB, Vol. 1, 1882.

<sup>417</sup>. NBB, Vol. 1, 1883.

<sup>418</sup>. NBB, Vol. 1, 1884.

Venereal Diseases treated at Grey's Hospital  
(External Department) 1883

	<u>Syphilis</u>	<u>Congenital Syphilis</u>	<u>Gonorrhoea</u>	<u>Venereal Sores</u>	<u>Total</u>
White male	12	0	13	1	26
White female	0	0	1	0	1
African male	46	33	infants 27	1	107
African female	15	-	2	0	17
St. Helena male	1	1	1	0	3
St. Helena female	2	0	0	0	2
Indian male	5	0	2	0	7
Indian female	0	0	0	0	0
Creole male	1	0	0	0	1
Creole female	1	0	0	0	1
	(83)	(34)	(46)	(2)	(165)

Once again, Africans were most afflicted by these diseases (124 cases), followed by whites (27) and Indians (7).<sup>(419)</sup> African men remained the prime sufferers (74 cases), followed by African infants (33), white men (26) and African women (17). The single white female listed was a child who had allegedly contracted gonorrhoea when indecently assaulted by an African. Considering the population figures for the Borough of Pietermaritzburg reveals the following:-<sup>(420)</sup>

Borough of Maritzburg - Percentage of Population  
afflicted by Venereal Disease (1883)

	<u>Population Percentage</u>	<u>Venereal Cases</u>	<u>Afflicted</u>
White men	3 362	26	0.8
African men	2 893	74	2.6
African women	416	17	4.1

Thus although African men were responsible for the majority of venereal cases, a greater proportion of African women was infected than their male counterparts. This phenomenon is difficult to explain. Allen was convinced that only the worst male cases presented themselves for treatment, when they could no longer hide their condition or endure their suffering. He considered that the majority of sufferers preferred to conceal their state than risk the avoidance of their friends which would inevitably occur when they found out about their diseased state. The massive

<sup>419</sup>. In addition, 202 cases of venereal disease were treated at the Indian Hospitals.

<sup>420</sup>. MM, Pmb, 1883.

increase in the incidence of congenital syphilis (1882: 3 African cases; 1883: 33 cases) appeared to indicate that venereal disease was more widespread than the hospital returns suggested. Allen lamented that the greatest difficulty he had to deal with was "this disinclination on the part of the Natives to seek advice, or to do anything which in the least would give rise to the suspicion that they are infected."<sup>(421)</sup> Allen's concern, like that of the majority of his fellow colonists, was not for the welfare of the black sufferers from these diseases, but for the health of the colony's white population: "When it is remembered that most of these men and women are employed as domestic servants, and that many of these suffered from harmless-looking, but most highly-contagious sores at the corner of their mouths, the dangers of contracting the disease incurred by those in whose houses they work can be easily understood."<sup>(422)</sup> He recommended that this evil could only be checked by legislative enactment, police inspection and a Lock Hospital.

The table below reflects the number of cases of venereal disease treated at Durban and Grey's Hospitals during the period 1880-3, the total number of cases of all diseases treated and the percentage which venereal cases constituted of the total cases:-<sup>(423)</sup>

Venereal Diseases treated at Durban and Grey's Hospitals (1880-3)

	<u>Durban</u>	<u>Grey's Admissions</u>	<u>Grey's Out-Patients</u>	<u>Total Venereal</u>	<u>Total Cases</u>	<u>Percentage Venereal</u>
1880	34	85	-	119	1 202	9.9
1881	54	64	-	118	1 136	10.4
1882	40	72	129	241	2 725	8.8
1883	36	83	166	285	3 182	9.0

By 1883, therefore, the incidence of venereal disease in Maritzburg (according to the number of outpatients treated in the External Department of Grey's Hospital) was increasing, and the statistics appeared to confirm what whites had always 'known' about Africans, that they were essentially immoral by nature. Admissions for venereal disease had not, however, increased in number and had in fact fallen since the high of 1879.<sup>(424)</sup> In Durban the number of cases had decreased since the high

<sup>421</sup>. NBB, Vol. 1, 1883.

<sup>422</sup>. Ibid.

<sup>423</sup>. The figures above include various social diseases, such as syphilis, congenital syphilis, gonorrhoea, venereal disease and bubo. NBB, Vol. 1, 1881-1884.

<sup>424</sup>. In 1879 99 cases of venereal disease were admitted to Grey's Hospital. The influx of troops into Natal for the Anglo-Zulu War is the most likely explanation for this high figure. Although no details are available, it is likely that the immorality of white troops contributed

of 1881 (<sup>425</sup>) and continued to decrease steadily right through to 1893, when only 18 cases were treated, constituting only 3.1 % of all the cases treated.

By 1883 the importance of venereal disease can be summarised as follows:- (<sup>426</sup>)

Percentage of Venereal Cases treated at Durban  
and Grey's Hospitals (1883)

	<u>Venereal Cases</u>	<u>Total Cases</u>	<u>% Venereal Cases</u>
Durban	36	586	6.1
Grey's (External)	166	1 984	8.4
Grey's (Admissions)	83	612	13.6

It is thus true to say that, while the incidence of venereal disease was significant and cause for some concern, Natal society was not about to be swept away by a massive venereal threat. Nevertheless, venereal disease was one of the most prolific diseases in the colony and should have received greater attention from the authorities than it did; in 1883 venereal disease ranked fifth at Durban Hospital in terms of the prolificacy of diseases, and first at Grey's Hospital. But Natal lacked the facilities to deal with sexually-transmitted diseases and did not appear to be in any hurry to develop the appropriate structures. For example, at Grey's Hospital patients suffering from venereal disease were allowed to mix indiscriminately with the other patients in the hospital, it being impossible on account of the nature of the building to keep them separate. Allen claimed that for many years this had had a prejudicial effect upon the hospital and had given it the bad name it enjoyed among the Africans.

In 1884 Protector Mason reported that when the *Coldstream* had arrived in Natal, cases of venereal disease were "not uncommon" amongst the Indians on board, while there were also several cases of syphilis. (<sup>427</sup>) The Medical Officer for the Durban Circle, Dr. Bonnar, reported that syphilitic infections had been more prevalent than previously. All, however, had been satisfactorily cured and he knew of no existing case in the Circle. Dr. McIntyre (Avoca Circle) reported that during

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significantly to this. This figure was not surpassed in any year for the period 1869-1893.

<sup>425</sup>. The 54 cases of venereal disease treated at Durban Hospital in 1881 was not surpassed for the entire period under review, 1869-1893.

<sup>426</sup>. NBB, Vol. 1, 1884.

<sup>427</sup>. NBB, Vol. 1, 1883.

1883 venereal disease had been kept in check by employers notifying him promptly of every fresh case of the disease. The more severe cases had been treated in the hospital. He reported an increase in the disease after the arrival of each shipment of Indians. <sup>(428)</sup> Dr. Greene (Isipingo Circle) reported that only 12 cases of venereal disease had come under his notice. <sup>(429)</sup> Dr. R.R. Allen (Maritzburg Circle) had treated 12 cases of primary syphilis, 88 cases of secondary syphilis and 36 cases of gonorrhoea. He thought that it was "melancholy to see a race eaten up with such a loathsome disease from habits of promiscuous and impure intercourse of the sexes." <sup>(430)</sup> By 1884 there were six Central Hospitals for Indians in Natal, viz., at Verulam, Avoca, Durban, Isipingo, Umzinto and Howick. The Protector considered them to be a "great boon" to Indian residents and employers alike. <sup>(431)</sup>

F.W. Greene (Isipingo) suggested in 1885 that stringent measures were required to deal successfully with venereal disease. In his opinion, there was no doubt that only a small number of Indians (especially free Indians) infected with venereal disease actually obtained proper medical treatment. Very rarely had he been able to trace the source of contagion. He concluded that until everyone suffering from the disease was compelled to apply for and remain under treatment till thoroughly cured, venereal complaints would increase and spread, even though hospital reports might not reflect this. <sup>(432)</sup> W.P. Tritton (Umzinto) reported that syphilis still held "a prominent position on all the large Estates." <sup>(433)</sup> He suggested that all cases of primary syphilis, both male and female, whether free or indentured, should be compelled to go to hospital for treatment. J. McIntyre (Avoca) reported that venereal disease had occupied "the foremost place in the destruction of the general health in very many cases." <sup>(434)</sup> He believed that greater care ought to be taken in properly inspecting all Indian immigrants before they were sent from the Depot to an estate. He concluded that it was "a much more prolific cause of disease of various kinds than, I think, is in some cases thought of, or more care and less slovenliness in the inspection of cases before setting them loose among other men and women would be displayed." <sup>(435)</sup> R.R. Allen (Maritzburg) reported that about one-sixth of the ailments prescribed for were venereal in origin. He believed that venereal complaints were contracted to a large extent on board ship during the voyage from India since with each allotment fresh cases appeared, very often in the primary stage

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<sup>428</sup> . Ibid.

<sup>429</sup> . Ibid.

<sup>430</sup> . Ibid.

<sup>431</sup> . NBB, Vol. 2, 1884.

<sup>432</sup> . Ibid.

<sup>433</sup> . Ibid.

<sup>434</sup> . Ibid.

<sup>435</sup> . Ibid.

of the disease. He considered that Indians were particularly vulnerable to these diseases "owing to their habits of personal and social uncleanness." <sup>(436)</sup>

In 1886 the Medical Officer for Grey's Hospital, James F. Allen, reported that there had been a "considerable increase" in the number of cases of venereal disease. <sup>(437)</sup> Africans constituted about half of the total number of cases. The table below reflects the number of cases of syphilis and gonorrhoea treated at Grey's Hospital (admissions and out-patients) during the period 1882-6:- <sup>(438)</sup>

Cases of Venereal Disease treated at Grey's Hospital (1882-6)

	<u>Syphilis</u>	<u>Gonorrhoea</u>	<u>Total</u>
1882	157	43	200
1883	171	74	245
1884	230	35	265
1885	243	80	323
1886	332	92	424
	(1 133)	(324)	(1 457)

The Protector of Immigrants, Louis H. Mason, reported that although all male immigrants were examined in India before embarking by two medical men, and the females underwent an examination by a skilled female nurse, and on arrival in Natal the same course was followed prior to allotment, new arrivals "almost invariably" had attacks of venereal disease as soon as they reached their estates. He believed that in many cases the disease was still latent when Indians were examined at the Durban depot. He considered that the disease was spread chiefly by the women, the examination of whom by an unprofessional person was probably less efficient than that of the men, who were passed by a duly qualified medical man. <sup>(439)</sup>

In 1887 the Protector of Immigrants, Louis H. Mason, reported a very marked decrease in the number of Indians suffering from venereal disease, due, in his opinion, to the falling off in the number of Indians introduced. <sup>(440)</sup> W.P. Tritton (Umzinto) reported that the cases of primary syphilis (20) had decreased as compared with the previous year (35). This he regarded as particularly satisfying

<sup>436</sup>. Ibid.

<sup>437</sup>. NBB, Vol. 1, 1886.

<sup>438</sup>. Ibid.

<sup>439</sup>. NBB, Vol. 2, 1885. See NBB, Vol. 2, 1885 for the reports of other medical circles.

<sup>440</sup>. NBB, Vol. 2, 1886. The number of cases of social diseases treated at Indian hospitals decreased from 204 in 1885 to 134 in 1886. However, the number of such cases increased rapidly thereafter, reaching a peak in 1890-1 when 555 cases were treated.

since a few years previously, before such cases were compelled to go to hospital for treatment, "great numbers of the Indians on the larger estates were diseased to a terrible extent." (<sup>441</sup>) John McIntyre (Avoca) reported that the Central Hospital had benefitted the Indian community "by absorbing every known case (nearly) of venereal disease, and preventing its dissemination among the healthy, but also by markedly lessening the cases of congenital syphilis among infants." He called for the enactment of a Contagious Diseases Act. In the Avoca circle, the inability to command inspection of suspicious women who refused to comply, caused the disease to spread. The men, however, seldom objected to being examined. He considered that as the disease was at the bottom of many instances of disease, which assumed many different forms, the original cause often escaped the condemnation which it would otherwise have received. Since his arrival in the colony, McIntyre had urged the most rigorous measures to control and eradicate the social diseases. (<sup>442</sup>)

The high incidence of prostitution and social diseases, as suggested by the reports of the various Resident Magistrates, Indian Medical Officers and District Surgeons, and by the report of the Wragg Commission which finally appeared in November 1887, caused many white colonists to demand that a Contagious Diseases Act be passed in order to address these pressing social problems. There appeared to be some urgency at this time; Natal was in the depths of the second major rape scare period and was determined to legislate her way to freedom from such 'debasing' intrusions. The time appeared to be ripe to crack down on immorality in all its forms. In 1886 the number of cases of venereal disease treated at Addington and Grey's Hospitals reached its highest level since figures were first published in 1869, and in 1887 were to reach the highest figure for the entire period under review. Partly as a result of public pressure, therefore, a Bill (No. 47, 1886) "For the better prevention of certain Contagious Diseases" was introduced into the Legislative Council in November 1886. The most important terms of the bill were as follows:-

- 1) Initially, the law would only apply to the Borough of Pietermaritzburg, but the Governor was empowered to extend it to other areas.
- 2) If anyone made a sworn statement to the Resident Magistrate that a certain female resident in the borough was a common prostitute, the woman was obliged to report to the courts to discuss the allegation. A woman who failed to report was liable to be arrested.

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<sup>441</sup>. NBB, Vol. 2, 1886.

<sup>442</sup>. Ibid. See NBB, Vol. 2, 1886 for the reports of other medical circles.

- 3) The Resident Magistrate was empowered to order that the woman be subjected to periodical medical examinations in order to ascertain whether she was carrying a contagious (venereal) disease.
- 4) A woman was permitted to voluntarily subject herself to periodical medical examinations.
- 5) Women who failed to report for such examinations were liable, on the first offence, to be imprisoned for any term not exceeding one month, and in the case of a second or any subsequent offence, to be imprisoned for any term not exceeding three months.
- 6) Any woman who was found to be infected with a contagious disease was liable to be detained in a hospital.
- 7) Clause 39 stated that "This Law shall not have the effect of legalising prostitution, or of exempting any person engaged in or practising the same, from such pains and penalties as may by the existing Laws of the Colony attach thereto." <sup>(443)</sup>

In a rather lengthy and sometimes fiery debate, the members of the House reflected the perennial contentiousness of this issue. Indeed, the question of a C.D. Act split the House right down the middle. The proponents of the bill advanced their arguments in the belief that such an act would improve the moral condition of all the people living in the region. They often referred to the alleged successful working of similar acts abroad. In particular, it was felt that a C.D. Act would have a beneficial effect on the state of African morality: "The Kafirs are not, in their native state, generally an immoral race, and if taught by severe and strict measures that disease brought on through impurity will not be tolerated in civilised communities, they will naturally be more careful, and soon learn to lead healthy and moral lives." <sup>(444)</sup> Opponents of the bill, however, argued that such legislation would protect and propagate a social evil rather than prevent the spread of disease.

In moving the second reading of the bill, the Acting Colonial Secretary, F. S. Haden, stated that the statistics which were put on the table revealed that not only was a "most alarming percentage" of military personnel suffering from various social diseases, but also that the African population of Pietermaritzburg was suffering "to an alarming extent" and that on various occasions the disease had been communicated in a "perfectly innocent way" to white inhabitants. <sup>(445)</sup> F.W.B. Louch

<sup>443</sup> . NGG, 23 Nov. 1886.

<sup>444</sup> . NW, 26 August 1887.

<sup>445</sup> . LC, 14 Dec. 1886. It is interesting to note that before the commencement of the second reading, the Acting Colonial Secretary called the attention of the House to the fact that there were strangers in the gallery. The speaker directed them to withdraw. The subject was

(Member for Durban County) also supported the bill, "under a sense of duty", and brought forward a powerful argument for its implementation. His conversations with the medical men of Pietermaritzburg had enlightened him as to the "fearful ravages" of the disease. He had heard that from 130 to 140 cases had been treated at Grey's Hospital within three months. There were allegedly over 200 African and 50 white prostitutes in Maritzburg and in his opinion, "the large majority" of these were affected with either gonorrhoea or syphilis "in a very severe degree." <sup>(446)</sup> There was no doubt, in his mind, that the disease was spreading and that throughout the length and breadth of Natal it was "unmanning" the African race. Medical evidence had proved that after the second or third generation from the impregnation of syphilis, insanity and consumption were the natural results of this disease. Louch was concerned that, since African servants were diseased, it was very difficult to protect little children and he believed that "many children of the white inhabitants" of Maritzburg were affected by the disease. <sup>(447)</sup> Even worse, he had been told by medical men that through a species of inoculation, some ladies were suffering from the disease.

The seven proponents of the bill were vociferously opposed by nine men who were firmly against the passage of a C.D. Act. They argued that the bill endeavoured to palliate vice, that innocent women could be subjected to indignity and life-long misery, that erring women would be hurried to the life of a common prostitute, that it was an affront to Victorian morality and would lessen in (white) women the sense of moral obligation and chastity, and that the problem was confined largely to the African and Indian sections of the population. <sup>(448)</sup>

After a lengthy and vigorous debate the bill failed to pass, a victim perhaps of the moral sensitivities of white legislators.

The House rose on 18 January 1887 and no more is heard of the bill until 1890, when a C.D. bill was again brought before the Legislative Council.

It is amazing to note that, although the C.D. Bill was primarily intended to address the problem of venereal diseases in Pietermaritzburg, the Maritzburg Town Council refused to discuss the matter. When the Council received a communication from the Durban Town Clerk enquiring as to what steps they had taken to suppress the vice of prostitution, a Mr. Braid immediately moved that the matter stand over for six

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obviously considered too sensitive for outside ears to hear.

<sup>446</sup>. LC, 14 Dec. 1886.

<sup>447</sup>. Ibid.

<sup>448</sup>. For further details of the debate see LC, 14 Dec. 1886, 18 Jan. 1887.

months. Councillor Mason moved, as an amendment, that the Council take no further action in the matter. He did not think it creditable to them as a Council to have anything to do with the matter. Mason contended that the bill sought to legalise a vice which was a disgrace to a Christian community. His fellow councillors agreed with him and his proposed amendment was agreed to. <sup>(449)</sup> In essence, no matter how they felt about the bill, the Maritzburg Town Council had a responsibility to address a social problem which appeared to be growing more serious each year. In their Victorian conservatism, however, they preferred to ignore the issue, and chose, therefore, to allow this particular problem to develop further.

J.F. Allen, the Medical Officer of the Maritzburg Corporation, considered that the failure of the C.D. Act to become law was "almost a public calamity". <sup>(450)</sup> He argued that the special diseases it was designed to control continued to spread "with alarming rapidity" and that "our deliberately shutting our eyes to the fact does not alter it." <sup>(451)</sup> These diseases were of the greatest importance to the whole community since everyone was compelled to employ African men as domestic servants and nurses. He hoped that the Government would make another attempt at passing such an Act.

The Indian Immigrants (Wragg) Commission, appointed in 1885 to investigate the position of the Indian population in Natal and report on their future government, provides some important insights into the moral condition of local Indians. The plethora of evidence which was given before the commission suggests that prostitution, immoral living and social diseases were rife amongst Natal's Indian population. Both whites and Indians related their experiences to the Commission, but the number of whites who gave evidence far exceeded the number of Indians. <sup>(452)</sup> Nevertheless, there was at least an attempt to achieve some sort of racial balance, a phenomenon seldom found in colonial Natal.

A number of Natal's foremost medical practitioners testified as to the lowly moral state of the region's Indian population. Dr. W.P. Tritton, the Medical Officer of the Umzinto Circle, held that women, whose husbands were in hospital, and who themselves were unable to work and consequently received no rations, "often resort [ed]" to prostitution during their husband's absence as a means of subsistence. But

<sup>449</sup> . NW, 18 August 1886.

<sup>450</sup> . MM, Pmb, 1887.

<sup>451</sup> . Ibid.

<sup>452</sup> . According to the Natal Government Gazette, 23 whites and four Indians gave evidence on the social condition of Natal's Indian population. For details of the evidence given before the commission see NGG, 11 Oct., 18 Oct., 25 Oct., 1 Nov., 8 Nov., 15 Nov., 29 Nov., 30 Dec. 1887.

he also thought that they did it "for the love of lust." <sup>(453)</sup> Tritton thought that power should be given by law to compel the removal of prostitutes and men and women suffering from infectious venereal diseases, to the Central hospital. <sup>(454)</sup> Dr. James B. Brewitt of Estcourt thought that prostitution was practised "to a very great extent" among the Indians since venereal disease was "great[ly] prevalen[t]" among both men and women. <sup>(455)</sup> He was of the opinion that, when syphilis was discovered on a farm, both men and women should be examined: "I believe that nearly all, if not all the women are prostitutes, and their so-called marriages a myth, as women live with one man for a few weeks, and then go to another." <sup>(456)</sup> Dr. Richmond R. Allen, the Indian Medical Officer of the Pietermaritzburg Circle, believed that there was "really no marriage" among the Indian population: "they all live in a state of prostitution, and cohabit promiscuously. I have heard that these women also practise prostitution with white men." <sup>(457)</sup> He attributed much of this prostitution to the small number of women imported.

The commission reported that both the Medical Officers of circles and the owners of estates complained greatly about the "very great prevalence" of venereal diseases among Indians of both sexes. <sup>(458)</sup> The commission had satisfied themselves that there were just grounds for such complaints. In the opinion of the commissioners, the spread of these diseases was fostered by well-known Indian prostitutes, who wandered from one estate to another, and by the arrival on estates of newly assigned Indians, male and female, in whom the diseases already existed.

The prostitution of Indian women was not a phenomenon which originated in Natal, but was a social problem of long-standing back in India. Not only were women in India not emancipated by British rule, but in some ways their condition actually deteriorated. Absolute poverty, together with the dislocation of village life, meant that vast numbers of women were frequently forced to abandon their homes and flock to the cities in search of employment. Often they resorted to a life of prostitution, a problem which was on the increase during the nineteenth century in India. Apart from passing ineffective legislation against the more aggressive forms of trafficking in women and children, the British did little to alter this trend. In fact, prostitution amongst Indian women was encouraged in the main centres, to provide for the needs of the large military contingency of the Raj. <sup>(459)</sup>

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<sup>453</sup> . NGG, 8 Nov. 1887.

<sup>454</sup> . Ibid.

<sup>455</sup> . Ibid.

<sup>456</sup> . Ibid.

<sup>457</sup> . NGG, 15 Nov. 1887.

<sup>458</sup> . NGG, 20 September 1887.

<sup>459</sup> . J.D Beall, 'Class, Race and Gender', p. 144.

The Wragg commissioners found that prostitutes were actually imported among the single women from India. For example, they cited the case of Thoy, an Indian woman, 20 years of age, who arrived from Madras on the *Dunphaile Castle* in 1884. On her emigration certificate (No.33228) her "caste" was described as "prostitute", and attached thereto was a "special nurses' certificate", dated 30 October 1884, signed by a diplomaed nurse and midwife of Madras, to the effect that she, Thoy, had been examined and found to be free from venereal diseases. <sup>(460)</sup> It was not, therefore, surprising that venereal diseases were contracted during the voyage from India to Natal. The commission believed that the examination, prior to embarkation at Calcutta and Madras of emigrant women by "the special nurses" appeared to be insufficient and unreliable. They found that, in the period between 1874 and the commencement of 1885, 96 women were found on examination after debarkation at Durban to be affected with venereal diseases. The commission considered that on the sugar estates, the concealment of the disease and the want of authority to compulsorily remove diseased persons to central hospitals, and to detain them therein until cured, helped the spread of these contagious diseases. Many complaints were made to them that individuals, who were affected with these diseases, escaped uncured from central hospitals and that patients, when their disease could no longer be hidden, strongly objected to being removed to hospital.

The commission brought forward a number of recommendations which they believed would check the spread of venereal diseases:-

- 1) The Indian Immigration Trust Board should instruct their agents at Madras and Calcutta to abstain from recruiting women who were known to be prostitutes.
- 2) Greater overall care should be taken in the selection of women in India.
- 3) Men and women, reasonably suspected of being affected with venereal diseases, should be subjected to a thorough examination prior to embarkation.
- 4) During the voyage, there should be complete separation of the sexes: latrines and wash houses should be set apart for the exclusive use of females and children, and there should be trustworthy sirdar supervision at all times, especially at night.
- 5) The medical examination of men and women at the Durban Depot should be made as soon as possible after the landing of the Indians. In order to discover cases of disease contracted during the voyage or undeveloped at the time of departure from India, the examination ought to be more careful and stringent than thitherto.
- 6) There should be separation of the sexes at the Durban Depot, both in the depot hospital and in the depot barracks.

<sup>460</sup> . NGG, 20 Sept. 1887.

- 7) Authority should be given by law, to employers and to Medical Officers of Indian circles, to remove to central hospitals, and to detain therein until cured, indentured Indians who were known to be affected with venereal diseases.
- 8) Authority should be given by law, to employers, to deduct from wages the costs of removal to, and of treatment in, central hospitals, of Indians affected with venereal diseases, when the disease was "so manifestly the result of misconduct." At the time, employers not only lost the services of such Indians when in hospital, but were compelled to pay the hospital fees in addition. <sup>(461)</sup>

In 1888 Louis H. Mason, the Protector of Immigrants, reported that the Indians who arrived from India "invariably" had venereal disease amongst them and despite precautions it was found that, after location in the Durban Depot, the disease had spread. He refused to believe that newly-arrived men left the depot with venereal disease since the Medical Board carried out a very strict examination of each man. Unfortunately, the examination of the women could not be so strict; the nurse who performed it "cannot be supposed to have the same capacity for detection of such diseases as would a duly-qualified medical man." <sup>(462)</sup> With a view to preventing the spread of the disease amongst newly-arrived Indians in the depot, extensive structural alterations were made during 1887. A separate compound was built for single women, with its own bath room and offices. The single men were lodged in the buildings at the other extremity of the depot, while married people were housed in a separate building near the single women. It was not intended to separate these groups during the day, but the single women were lodged at night in their own compound and would be precluded from leaving it. The Depot Medical Officer hoped that these additional precautions, designed to prevent the intercourse of the sexes, would have the effect of stopping the spread of venereal disease in the depot.

The Protector said that the peculiar customs and the low moral standards of some Natal Indians was certainly not a good recommendation of the Indian race to those who did not know them in their native state in India. He hoped, however, that as the race in Natal aged and education bore its fruits, the moral tone of Indians would be raised. <sup>(463)</sup>

The following table illustrates the number of cases of venereal disease treated at Addington Hospital (Durban) and Grey's Hospital during the period 1880-9, the total

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<sup>461</sup> . Ibid.

<sup>462</sup> . NBB, Vol. 2, 1887.

<sup>463</sup> . Ibid.

cases treated of all diseases and the percentage of the total cases constituted by venereal disease:- <sup>(464)</sup>

Cases of Venereal Disease treated at Addington  
and Grey's Hospitals (1880-9)

	<u>Addington</u> <u>Venereal</u>	<u>Grey's</u> <u>Admissions</u>	<u>Grey's</u> <u>Out-Patients</u>	<u>Total</u> <u>Venereal</u>	<u>Total</u> <u>Cases</u>	<u>%</u>
1880	34	85	-	119	1 202	9.9
1881	54	64	-	118	1 136	10.4
1882	40	72	129	241	2 725	8.8
1883	36	83	166	285	3 182	9.0
1884	51	66	109	226	4 036	5.6
1885	27	82	248	357	4 171	8.6
1886	27	92	335	454	6 611	6.9
1887	23	69	391	483	8 067	6.0
1888	31	59	324	414	8 339	5.0
1889	36	42	268	346	7 980	4.3
	(359)	(714)	(1 970)	(3 043)	(47 449)	(6.4)

Due to the large number of attendances in the External Department (Out-Patients) of Grey's Hospital, many of which were for trivial ailments, the importance of venereal diseases tends to be minimised by the figures reflected above. It is more useful and instructive, therefore, to consider only those cases which were entered in the Hospital's External Department Case Book. A specific record was kept of these cases, either because of the grave nature of the disease, or for some other reason giving the case interest or importance. Repeated visits of patients already entered in the case book or trivial cases were not entered. The table below indicates the number of cases of venereal disease treated in the External Department of Grey's Hospital for the period 1884-9 and shows the percentage of venereal cases relative to the total cases entered in the Case Book:- <sup>(465)</sup>

<sup>464</sup>. NBB, Vol. 1, 1880-1889. The above figures include syphilis, congenital syphilis, venereal disease, gonorrhoea, bubo, and venereal sores and warts.

<sup>465</sup>. NBB, Vol. 1, 1884-1889.

Cases of Venereal Disease (Out-Patients)  
treated at Grey's Hospital (1884-9)

	<u>Venereal Cases</u>	<u>Total Cases</u> <u>Venereal</u>	<u>Percentage</u>
1884	109	350	31.1
1885	248	718	34.5
1886	335	960	34.9
1887	391	1 470	26.5
1888	324	1 152	28.1
1889	268	979	27.4
	(1 675)	(5 629)	(29.8)

The above table provides a more accurate reflection of the serious nature of venereal disease in Maritzburg. Not only were more venereal cases treated in the External Department of Grey's Hospital than any other disease, but social diseases contributed a significant 30% of the total cases treated during the period 1884-9.

In addition to the cases of venereal disease treated at the colony's two major white hospitals (Durban's Addington Hospital and Maritzburg's Grey's Hospital), it is also important to consider the social diseases treated at the various Indian hospitals, where, almost without exception, venereal diseases were the most prolific of the many diseases under treatment. The following table illustrates the number of cases of venereal disease treated at the Indian hospitals during the period 1883-9:- <sup>(466)</sup>

Cases of Venereal Disease treated at Indian Hospitals (1883-9)

	<u>1883</u>	<u>1884</u>	<u>1885</u>	<u>1886</u>	<u>1887</u>	<u>1888</u>	<u>1889</u>	<u>Total</u>
Depot	57	67	52	23	68	74	46	387
Avoca	53	59	32	17	47	53	48	309
Verulam	63	70	45	19	28	19	45	289
Umzinto	16	25	39	23	22	32	54	211
Isipingo	13	16	23	21	9	14	9	105
Howick	-	-	13	12	5	9	4	43
Estcourt	-	-	-	-	7	3	10	20
Weenen	-	-	-	19	-	-	-	19
	(202)	(237)	(204)	(134)	(186)	(204)	(216)	(1 383)

By the end of the 1880s the incidence of venereal disease in the colony had increased since Allen's landmark report back in 1883. Although the number of cases

<sup>466</sup>. NBB, Vol. 2, 1884-1889. The figures above include various venereal diseases such as syphilis, syphilitic ophthalmia, syphilitic rheumatism, bubo, chancre, gonorrhoea, gonorrhoeal rheumatism, gonorrhoeal and venereal sores, gonorrhoeal orchitis and venereal disease.

treated at Durban's Addington Hospital had remained constant (36 cases in both 1883 and 1889) and admissions at Grey's Hospital had decreased significantly (1883: 83 admissions; 1889: 42 admissions), the large number of out-patients treated in the External Department of Grey's had risen by 61% (1883: 166 cases; 1889: 268 cases), giving an overall increase for the colony at these two major institutions of 21%. The incidence of venereal disease treated at the Indian Hospitals had risen by 7%. Compared to other diseases in Natal, the venereal diseases remained among the most prolific; in 1889 social diseases ranked first in prolificacy at the Grey's External Department (having been first throughout the decade), fourth among admissions to Grey's (having been first for most of the decade) and sixth at Addington (having ranged between third and seventh since 1880). Social diseases were always the most prolific disease treated at the Indian Hospitals. The good news, however, was that the worst appeared to be over. The number of admissions at Grey's Hospital had declined steadily since 1886 and by 1889 constituted only 8% of all admissions, while at Addington venereal disease was no worse than it had been a decade earlier and made up only 4.7% of all cases. The number of cases treated at the Indian Hospitals had only increased marginally since 1883 (1883: 202 cases; 1889: 216 cases). The cases treated in the External Department of Grey's had decreased significantly since 1887 (1887: 391 cases; 1889: 268 cases). The figures for the External Department of Grey's Hospital reveal that the following patients were treated in 1889:- <sup>(467)</sup>

African male:	100
Indian male	52
African female:	46
White male:	17
White female:	10
Indian female:	9

Thus the widespread promiscuity of the African population, males in particular, appeared to be confirmed by the official statistics. The alleged immorality of Indian men also appeared to be a reality, while white immorality seemed to be low, consisting only of characters who were condemned by white society for being of low class and a disgrace to the superior white race.

Indecent assaults and assaults with intent to commit a rape were still present during the first half of the 1880s, but their presence did not constitute a crisis of any sort. The white population, while never accepting these phenomena, had probably almost

<sup>467</sup>. NBB, Vol. 1, 1889.

resigned themselves to the fact that these assaults were now a part of everyday life. Sentencing remained strict, but lacked the severity of a rape scare period. For example, Charlie, an African, charged with having assaulted Mary Garner with intent to commit a rape, was sentenced to five years' imprisonment and 39 lashes. <sup>(468)</sup> The prisoner was reported to have been in the habit of kissing little white girls. In another case, a Swazi tog labourer called Umpompey, was charged with criminally assaulting a 14 year old white girl. The girl had arrived home "in a most exhausted and fainting condition, with her dress in great disorder, and her throat and other parts of her body greatly bruised, showing that she had been treated with great violence." <sup>(469)</sup> The girl positively identified her assailant and the medical report confirmed that an attempted rape had taken place. The case was referred to the Durban Circuit Court where the jury found the man guilty of assault with intent to commit a rape. Chief Justice, Sir. Henry Connor, sentenced him to three years' hard labour. <sup>(470)</sup> Considering the nature of the crime, this sentence is extremely lenient and reflects the fact that white colonial society did not feel under siege at this point. In a further case of this description, Umlizana, an African man, was charged with indecently assaulting Louisa Lock, a white woman. It was alleged that he had put his hand on her shoulder, asked her to kiss him, and had exposed himself, offering her money not to tell her husband. Justice Cadiz sentenced the man to five years' imprisonment and 39 lashes, remarking that "he was sorry to say the crime appeared to be on the increase, and was one he would always punish severely." <sup>(471)</sup> The woman was supposed to be frequently drunk and often exposed herself outside her house, but these facts did not appear to influence the jury. An East Indian by the name of Billy Palmer, charged at the same session of the Durban Circuit Court with an attempted rape on a twelve year old Indian girl, was also sentenced to five years' imprisonment and 39 lashes. <sup>(472)</sup>

Black women did not always appear to enjoy the same protection of the law as that afforded to white women. The following case illustrates this situation quite clearly. Udumenzine, an African man, charged with having committed a rape upon the person of an African woman called Unani, was found not guilty. Two policemen gave evidence that, on hearing the woman's cries, they had gone to the spot and had caught the man in the act. Although the judge virtually directed the jury to find the prisoner guilty, they returned a verdict of not guilty. In another case of this description, an African called Ladam was charged with committing a rape upon an African girl near a homestead in Alexandra. The jury returned a unanimous verdict

<sup>468</sup> . NM, 16 Dec. 1880.

<sup>469</sup> . NM, 24 Jan. 1881.

<sup>470</sup> . NM, 19 Feb. 1881.

<sup>471</sup> . NM, 28 April 1881.

<sup>472</sup> . Ibid.

of guilty. In sentencing the prisoner, Justice Cadiz referred to a beating which the man had already received from the girl's relations and also to the time he had been imprisoned. The man received three years' hard labour, an extremely lenient sentence. <sup>(473)</sup> There can be little doubt that white juries did not feel the same amount of sympathy towards black victims of sexual assault as they did towards their own fellow whites. Somehow, African women who were attacked by men of their own colour were partly to blame because they were being assaulted by their own fellow 'savages'. The perception among many whites would have been that, if a 'savage' attacked a 'savage', it was to be expected, and therefore, was not that serious. It is highly unlikely that, if in the former case above, the victim had been a white woman, the jury would have returned a verdict of not guilty.

The courts did not appear to discriminate between white and black victims when it came to relatively minor charges of indecent assault and frequently imposed the maximum penalty, viz. three months' imprisonment. For example, Cetywayo, an African borough constable, was fined £3 or three months' hard labour for committing an indecent assault upon an African girl <sup>(474)</sup>, while Matanga, an African charged with committing an indecent assault upon an eleven year-old white girl, was imprisoned for three months with hard labour and received a flogging of 25 lashes. <sup>(475)</sup> In 1883 Superintendent Alexander commented that cases of indecent assault were becoming "quite the practice in the borough" and that it was not surprising since some white women were so immoral that they were "deserving of being hanged." <sup>(476)</sup>

The occasional case of house-breaking with intent to commit a rape was perpetrated during the early 1880s, but generally the white residents of the colony's major towns did not feel that their homes were being threatened by African sexual marauders. <sup>(477)</sup> More often than not, an African burglar would be given the benefit of the doubt when it came to the sexual nature of a house-breaking charge. For example, Matyana, an African domestic servant, was charged with breaking into his master's premises with intent to commit a rape, or with some other unlawful intent. The prisoner had entered the bedroom of one of his master's daughters by placing a ladder against the verandah. The girl, awakened by the noise of the sash sliding, had called her father, who had found the man hiding under the stairs of the pantry, wearing nothing except his shirt. The man was found guilty of being on the premises with unlawful intent and was sentenced to six months' imprisonment and 40 lashes.

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<sup>473</sup>. NM, 16 August 1883.

<sup>474</sup>. NM, 24 August 1882.

<sup>475</sup>. NM, 13 Feb. 1883.

<sup>476</sup>. NM, 16 Oct. 1883.

<sup>477</sup>. This situation changed dramatically from 1885 onwards when the second major rape scare period began.

(<sup>478</sup>) Even the father of the girl claimed that the charge had never been one of attempted rape, but one of trespassing with unlawful intent. There can be little doubt, however, that during a rape scare crisis, father, judge and jury alike would have preferred the sexual nature of the crime.

The crime of abduction first appeared in the colonial press in the early 1880s and caused further shock waves to reverberate through white colonial society. In one of the first cases of this nature, an African called Usimone was charged with abducting a little English girl of tender age. Giving evidence, the girl's mother, Mrs. Indiana MacDaniell said that between two and three o'clock in the morning she had heard her daughter scream out that an African was dragging her out of the house. She found the child standing in the kitchen, with the window, which had previously been secured, wide open. She stated that the African returned three times during the night, trying to get in the window, but she had prevented him and locked the window again. (<sup>479</sup>) In an editorial, the Natal Mercury advised that, if the above charge was substantiated, it would be necessary to make an example of the culprit by adequately severe punishment. It reminded its readers of the dangers of such crimes and of the responsibility which each parent had to ensure the safety of their children:

Experience has taught us that this class of crime [i.e., sexual assaults] is apt to become epidemic, and opportunities for its commission are unfortunately so abundant that it is in the interest of the natives, no less than in behalf of society, that deterrent treatment be accorded. The increasing popularity of the tog system tends to draw into household service large numbers of native adolescents, whose minds are the most liable to be injuriously acted on by the frequent and undetected perpetration of these offences. When we see how thronged our streets and highways are with innocent and helpless children, the protection of these little ones from outrageous abduction and foul assault becomes a sacred and imperative duty, which it should be the first business of all concerned to vigorously discharge. (<sup>480</sup>)

Such an editorial would have undoubtedly whipped up the protective emotions of white residents and made them even more suspicious and hostile towards the local African population.

For eleven long years, therefore, from about 1872-1882, the colony's white women appeared to exist in a condition of perpetual security. Certainly, no legislation was

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<sup>478</sup>. NM, 3 Nov. 1881.

<sup>479</sup>. NM, 31 Jan. 1882.

<sup>480</sup>. NM, 1 Feb. 1882.

introduced to suggest otherwise and the colonists always devised laws to extinguish social problems which they perceived as threatening.

In August 1883, however, Mr. Crowder reopened the question in the Legislative Council of Africans molesting white women when he inquired of the Attorney-General whether the Government planned to introduce any measure to repress the "increasing crime" of indecent assaults committed by African men on the colony's white ladies. The Attorney-General was of the opinion that the existing law was "quite sufficient" for the repression of this offence. He claimed that this type of crime was not increasing and that since the rape scare of 1869, had in fact been "gradually decreasing to a very large extent." He suggested that a return be compiled on the number of these crimes from 1869 to 1883. From his experience, he believed the crime was confined to "a very few perpetrators".<sup>(481)</sup>

Ten days later Mr. Crowder addressed the House at great length on the subject of the punishment for indecent crimes committed by Africans. He regarded the question as one of the most important problems they were called upon to solve and predicted that within three or four years it would be "the burning question" of the colony.<sup>(482)</sup> His prediction proved to be incredibly accurate since three years later, in 1886, a second rape scare burst onto the colonial scene. Crowder claimed that "for years past" the sentences which had been passed in the courts for various offences had been inadequate, erring seriously on the side of leniency. The majority of white residents would have concurred.

The crime of "Interfering with White Girls", although not an entirely new phenomenon, began to increase in frequency from about 1883 onwards. Although it was in most instances a reality, it also formed part of the white colonial mentality which said that African men and boys posed a serious threat to all white women and girls. An African male who attempted to initiate a conversation with a white girl would be deemed to be guilty of interfering with her and of insubordination towards the 'superior' race. In one of the first cases of this description, two young African boys were charged with interfering with white girls on Point Road. When they had been told to *voetsak*, they had asked why they should be told that when white men favoured African girls. Some African constables had heard the dialogue and had taken the boys into custody. Superintendent Alexander stated that there were numerous complaints of white girls being interfered with by African boys in that neighbourhood and that parents were afraid to allow their children out after dark.

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<sup>481</sup>. LC, 14 August 1883.

<sup>482</sup>. LC, 24 August 1883.

Resident Magistrate Finnemore sentenced the boys to a fine of £2 or six weeks' imprisonment. <sup>(483)</sup>

By July 1883 the Natal Mercury reported that the complaints made by white women and girls of interference by Africans were becoming more numerous and that scarcely a day passed without one hearing of such a case. <sup>(484)</sup> In Maritzburg too, reports were received that African "loafers" were to be found on the streets, passing obscene remarks to every white female who went by. <sup>(485)</sup> The offenders were reported to be Africans who had lived in town for some time and had advanced in the scale of civilization until they "wear 'squeaking' boots, light-coloured suits, flaming coloured neckties; smoke filthily bad tobacco, and swing a cane as they walk." <sup>(486)</sup> The police were being very vigilant in their efforts to stamp out such practices and a number of cases were being brought before the courts. Sentences appeared to be becoming more severe in a desperate attempt to rid society of this troublesome disease. For example, an African servant boy, charged with assaulting two white girls, aged 10 and 12, as they were playing in their garden, was sentenced to three months' hard labour and a whipping of 24 lashes. <sup>(487)</sup> This was the maximum sentence allowed by law. In another case, an African called Umtweni was charged with annoying a white girl of 11 years of age. The prisoner was in the habit of following the girl around and whispering comments to her. The annoyance had become so great that she feared to go out alone. It was alleged that the man bore a very bad character, even his fellow Africans having complained of his behaviour. He had once been ordered by a Durban magistrate to leave the borough. The man received the longest sentence permitted by the law, viz. three months' hard labour. <sup>(488)</sup> An African, who stopped four little white girls in the street and asked them to kiss him, was fined £10 or three months' imprisonment. <sup>(489)</sup>

Cases of African men annoying and molesting black women and girls also took place. The sentences handed down for these crimes were far more lenient than those for black on white assaults, indicating quite clearly that the white authorities were more concerned about the safety of their own womenfolk than that of the African women. For example, an African called Jelly, charged with molesting an

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<sup>483</sup> . NM, 3 May 1883.

<sup>484</sup> . NM, 28 July 1883.

<sup>485</sup> . NW, 20 July 1883.

<sup>486</sup> . NW, 21 July 1883.

<sup>487</sup> . NM, 20 July 1883.

<sup>488</sup> . NM, 28 July 1883.

<sup>489</sup> . NW, 23 Nov. 1885. The maximum permissible sentence was £10, or three months' imprisonment and 25 lashes, usually administered in the form of two floggings of 12 lashes each.

African girl in Loop Street, was fined £2 or a month's imprisonment. The man had persistently annoyed the girl by waiting for her after school and following her home. In another case an African called Uyedaln was charged with behaving "very violently" towards an African girl in Longmarket Street. The magistrate, noting that such things had to be stopped and that if Africans came to town to live they had to conform to town usages, imposed the lenient sentence of £1 or 10 days in prison. <sup>(490)</sup>

In 1884 the number of cases of indecent conduct, and indecent assaults and acts (sec. 23 bye-laws) on white girls increased dramatically. <sup>(491)</sup> Superintendent Alexander warned the people of Durban that they should expect an increase in these offences unless they "assert their position, and are more careful in dealing with natives who have no religious or moral training, and only understand what is wrong by being punished for doing it." <sup>(492)</sup> The 27 African men convicted under section 23 of the bye-laws were punished as follows:-

2 received 3 months and 25 lashes each.

5 received 3 months or were fined £10.

3 received 3 months or were fined £5.

3 received 2 months or were fined £5.

The remainder received lesser penalties. Alexander warned whites to be more careful and not to permit so much familiarity with "this class of men". <sup>(493)</sup>

The Attorney-General, M. H. Gallwey, reported that there had been a "marked and unaccountable increase" in assaults by Africans on white women and children with intent to rape. In one case, the crime had resulted in the death of the victim and the offender had been hanged for murder. The majority of these cases had occurred in and around the City of Pietermaritzburg. The prisoners convicted of these offences had been punished by long terms of imprisonment and whipping. <sup>(494)</sup>

The Resident Magistrate for the City Division, Charles Barter, reported that unfortunately the horrible outrage and murder at the Camp Drift, followed by the trial and execution of the African Ujan, was not an isolated case: "whether by a kind of moral contagion, such as is known occasionally to attend certain forms of crime, or whether the cause lies deeper, it cannot be denied that an era of assaults by Natives on white women has set in, and has not yet culminated." <sup>(495)</sup> In addition to the

<sup>490</sup> . NW, 19 March 1885.

<sup>491</sup> . See table on p. 643.

<sup>492</sup> . MM, Dbn, 1884.

<sup>493</sup> . Ibid.

<sup>494</sup> . NBB, Vol. 1, 1883.

<sup>495</sup> . Ibid.

notorious "Ujan" case, six more had occurred in Maritzburg during 1883, three of which had been dealt with by the Supreme Court, while the remaining three had come before Barter for summary trial. Barter regretted that the new year had already seen three cases added to the list. Barter noted that he had not included charges under the 67th bye-law, nor assaults committed on African women. Though he considered the latter "of grave importance", these had to be "separately considered", in other words relegated to the less important Native Reports. <sup>(496)</sup>

Barter's sentiments about the "increasing prevalence" of assaults on white women and children were decidedly gloomy: "So long as our necessities compel us to encourage a floating population of about 3 000 male Natives, entirely relieved from the only form of government which they comprehend, without a visible head, or defined habitation, exposed to the worst influences of city life, and subject only to restrictions hourly evaded, and which it is practically impossible to enforce, so long will a mutual deterioration ensue." <sup>(497)</sup> He offered a few suggestions which, if they did not effect a cure, would at least act as prophylactics:-

- 1) Deterrent punishments. These had already been adopted.
- 2) The compulsory segregation of all Africans, other than domestic servants, in villages or barracks outside the town, under proper rules and regular surveillance.
- 3) The provision of proper sleeping accommodation upon the premises to be enforced on the employer of all monthly servants, and occupation thereof to be enforced on the servants.
- 4) The discontinuance of employing African men or boys as nurses, or for any work which "essentially belongs to the other sex."
- 5) Discouragement on the part of parents of all intercourse between young children and Africans.
- 6) Increased care and vigilance over women traversing the streets after sunset.
- 7) Accurate and careful registration of Africans within the borough.
- 8) The occupation of isolated houses or rooms by Africans should be prohibited, unless specially permitted by the Administrator of Native Law.

Although the white residents of Natal viewed African immorality and outrages committed against white women with absolute abhorrence, their general opinion (or certainly the opinion of the more liberal settlers) of the African race remained quite positive and even complimentary at this stage. The editor of the Natal Witness warned his readers against castigating an entire race for the excesses of the few and drew attention to some of the more positive qualities of the African:

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<sup>496</sup>. Ibid.

<sup>497</sup>. Ibid.

The natives of this Colony are a well-behaved lot of people, ... they are a happy, law-abiding people, who live on terms of the greatest friendship with European colonists. It is no uncommon thing for farmers in the country to be served for twenty years by natives, who work on the farm for so many months, then enjoy a sojourn at their kraals. These men know their masters' children from their earliest infancy; they tenderly carry the infant; they play with the child of seven, they become the friend of the boy of fourteen, and are truly respected by the young man of twenty-one. <sup>(498)</sup>

By 1885 the crime of interfering with or insulting white females had become the talk of Natal's principal towns, Durban and Maritzburg. White residents began to feel that white women and girls, who traversed the towns and suburbs unescorted by male company, were in grave danger of being insulted and possibly sexually molested by African men. <sup>(499)</sup> The perennial calls for new and tougher legislation to protect whites from African sexual aggression reverberated throughout the colony, causing this subject to dominate the columns of the colonial press and the debates of the Legislative Council. According to the Mayor's Minute for 1885, however, the number of Africans convicted under the bye-laws for indecent conduct, assaults and acts had actually decreased dramatically. Alexander attributed this decrease to the severe punishment inflicted on offenders. He claimed that if the same punishment were awarded to white women of ill-fame who encouraged Africans to similar acts, respectable women in Durban would have still less to fear from the Africans. <sup>(500)</sup> M.H. Gallwey, the Attorney-General, also reported that the number of cases of attempted rape or indecent assault by Africans upon white females was considerably smaller than in 1884 and that all the convicted offenders had been severely punished. There were 8 cases in 1885, compared with 10 in the previous year. <sup>(501)</sup> The white residents of Durban and Maritzburg, however, thought that the dangers of sexual attack by African males were on the increase and could not identify with the Mayor's Minute and the Report of the Attorney-General.

An editorial in the Natal Mercury reflected the feelings of most white Natalians:

It is to be hoped that our legislators will apply their earliest energies next session to a revision of the laws that bear upon cases of assault and indecency. The whole question needs reviewing from top to bottom. Special

<sup>498</sup>. NW, 21 July 1883, 11 Sept. 1883.

<sup>499</sup>. This period of tension, 1883-1885, can be seen as the forerunner to the next rape scare period, which blossomed from 1886 onwards.

<sup>500</sup>. MM, Dbn, 1885.

<sup>501</sup>. NBB, Vol. 1, 1885.

remedies are required to meet special evils, and the need of special treatment for these offences in this colony has long been a matter of scandal. It is intolerable that bestial-minded men - be they natives, or Asiatics, or Europeans - should be able to insult respectable women in the public highway without suffering further penalty than is represented by a fine. <sup>(502)</sup>

One of the problems was that, since prisoners were given the option of a fine, they often paid the fine and left the court with a smile on their faces. Even if they went to gaol for three months, there was almost no stain on their character when they came out as prospective employers would be unaware of a man's criminal record. The fear of many whites was that "in three months' time ..., this scoundrel will be free to again insult white women, and perhaps next time may be more successful, as he will probably engage himself to work in some unsuspecting family and take advantage of his position there." <sup>(503)</sup> It was suggested that Africans should be photographed immediately on the sentence being passed, before their hair was cut off, and the photographs placed in some conspicuous place such as the window of the Town Office. This would make it virtually impossible for them to obtain employment in and around the borough. It was further suggested that in cases of this nature there should not be the option of a fine in the maximum permissible sentence and that evidence should be taken *in camera* in order to afford the victims a measure of privacy. It was feared that the public would take the law into their own hands if the law as administered proved powerless to provide the necessary protection for the white female population.

In 1885 the Durban Corporation amended bye-law 23 and passed in its place bye-law 23b which read as follows: "Any person found guilty of a contravention of bye-laws 23 or 23a <sup>(504)</sup>, or both, within the borough, shall on conviction be imprisoned, with or without hard labour, and with or without spare diet, for a period not exceeding three months; or shall be fined in a sum not exceeding £10, and shall be imprisoned as aforesaid in default of payment of any such fine and costs." <sup>(505)</sup> The bye-law, as amended, thus left it to the discretion of the magistrate to award a fine or imprisonment. Previously he had been bound to award the option. While many residents expressed a desire to include whipping within the limits of magisterial discretion, this could not be achieved without new legislation. The Natal Mercury was firmly of the opinion that in this class of crime [African insolence to white

<sup>502</sup>. NM, 26 Jan. 1885.

<sup>503</sup>. NM, 27 Jan. 1885.

<sup>504</sup>. These bye-laws covered such offences as indecent conduct and gestures, interfering with women, and obscene language.

<sup>505</sup>. NM, 9 March 1885.

females] the lash was the most appropriate treatment: "... its authorisation would impress upon the native mind the fact that the manner and language they may be permitted to use on public highways in social intercourse with their own race cannot be tolerated within the limits of European towns and villages. The question involves a revolution in native manners, a revolution inevitable sooner or later, but only practicable as a gradual and tentative change." <sup>(506)</sup> It was considered that, as a first step, the suppression of public lewdness in towns would have an exemplary and purifying effect. The Natal Mercury was quick to point out that the new bye-law was not class legislation or class treatment, but was merely a matter of social morals and domestic prophylactics. <sup>(507)</sup>

Consistency in sentencing remained a problem on occasions. For example, at the Durban Circuit Court in February 1885, an indentured Indian man, charged with criminally abusing an Indian girl under nine years of age, was sentenced to three years' hard labour and a whipping of 25 lashes, while at the same session, an African who pleaded guilty to store-breaking and theft was sentenced to two years' hard labour, the same sentence imposed on another African for stealing fowls. <sup>(508)</sup> In another striking example of apparent inconsistency, an African, charged with unlawfully entering the bedroom of a white servant girl with intent to commit a rape, was sentenced to seven years' imprisonment and 40 lashes <sup>(509)</sup>, while another African, charged with unlawfully entering the bedroom of a white maid-servant, was sentenced to the relatively lenient sentence of three months' hard labour and 25 lashes. <sup>(510)</sup> Although white magistrates tended to be more severe in sentencing black criminals (in a sexual case, a black on black attack would be perceived in a rather less serious light than a black on white assault), there were also instances where sentencing was remarkably fair. For example, an African charged with an indecent assault upon an African girl, received the same penalty, viz., three months and 25 lashes, as an African who was found guilty of a criminal assault on a five year old white girl. <sup>(511)</sup>

Throughout 1885 the pace began picking up towards the rape scare period of 1886-1887. "Kafir" insolence, indecent assaults and indecent behaviour were on the increase, a constant reminder to the white population that the African menace was still in existence, ready to prey on the weakness of white women and children.

<sup>506</sup>. NM, 10 March 1885.

<sup>507</sup>. Ibid.

<sup>508</sup>. NM, 12 Feb. 1885, Justice Cadiz presiding.

<sup>509</sup>. NM, 11 June 1885, Justice Wragg presiding. The prisoner had pulled the clothes off the bed, but had run away when the girl woke up.

<sup>510</sup>. NM, 15 Sept. 1885, Justice Finnemore presiding.

<sup>511</sup>. NM, 29 Dec. 1885, 6 Jan. 1886.

Magistrates were urged to use the powers at their disposal to impress upon Africans (particularly servants) that no disrespect, either by word, deed or look, towards any white woman would be tolerated. White families who allowed their African servants to appear in a state of nudity were criticised for encouraging African insolence and sexual advances. <sup>(512)</sup> Resident Magistrate Finnemore commented that cases of African insolence were becoming very frequent and that not a day passed without some white female being insulted. He urged that such conduct be put down with a strong hand. <sup>(513)</sup>

Throughout the colonial period the severity of sentencing served as an accurate barometer of the state of the white colonial mind. From the end of 1885, the sentences handed down in sexual cases became more severe, reflecting the need felt by white magistrates to impose sentences which would deter prospective criminals and satisfy the anxieties of local white residents. The Berea Assault Case of October 1885 is a striking example of this phenomenon. A Tonga African called Wagon, alias Uyanga, was charged with having committed a rape upon a white lady, resident on Musgrave Road, or otherwise with having attempted such a crime. He was found guilty on the first count and sentenced to 10 years' imprisonment with hard labour and 40 lashes. Justice Wragg agreed with the verdict of the jury, remarking that "the crime was one which was of a very serious nature, and unless such matters were dealt with with a heavy hand there would not be safety for any woman in our midst." <sup>(514)</sup> The Natal Mercury rejoiced that justice had been delivered and that the severe nature of the sentence would have a suitable deterrent effect on the African population. It warned, quite ironically, against the promotion of racial hatred in the colony: "Severity in such cases is the truest humanity; or were they to remain unpunished, and were impunity to breed license, a feeling of race hatred would be begotten which must bear disastrous social fruits." <sup>(515)</sup>

The above sentence might be regarded as being very heavy, but is indicative of the fact that the colony was moving towards a rape scare period. This period was preceded by a spate of incidents involving indecent assaults, insolence, attempted kisses, harassment and swearing which served to sweep the white settler community into a highly emotional state. Whereas the rape crisis of 1866-71 had been principally an indoor phenomenon in which white females appeared to be attacked and molested in their own homes, the crisis of 1886 would focus primarily on the

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<sup>512</sup>. NM, 25 Feb. 1885.

<sup>513</sup>. NM, 3 March 1885.

<sup>514</sup>. NM, 3 Dec. 1885.

<sup>515</sup>. NM, 4 Dec. 1885.

outdoors, posing a threat to white women and girls who traversed the streets and footpaths of the colony's main towns.

During the years 1886 and 1887 Natal's most important towns, Durban and Pietermaritzburg (to a far lesser extent), suffered an epidemic of indecent assaults and attempted rapes which were perpetrated by African males on white females. The following are typical examples of such cases. Umnukwa, an African, was charged with having committed an indecent assault on a lady living on the Berea. The man, who was employed by the woman, had allegedly approached her in the kitchen one evening, and, placing his hand on her, had asked her for a candle. When she had rebuked him, he had fallen to his knees and clasped his arms around her exclaiming, "I love you. I do not care for colour, I will make you my wife." The jury without retiring returned a unanimous verdict of guilty. Justice Wragg told the court that, "It was a fortunate thing for him that he did not do more than he did at the time, or the sentence upon him would have been far more severe. The sentence about to be passed upon him was to show that such behaviour by natives upon white ladies would not be permitted by law." <sup>(516)</sup> The man was sentenced to five years' imprisonment with hard labour and 20 lashes. This sentence, for a 'crime' which seems more strange than serious, must be regarded as extremely harsh. It was intended to deter other Africans from contemplating attacks on white females and to place the African firmly in his place, lest he become too familiar with his white master and mistress.

In another case of this nature, labelled by the Natal Mercury as the "Terrible Outrage near Richmond", an African called Umteli was charged with the criminal assault of an 18 year old white woman. The man was found guilty and received a stern lecture from the presiding judge: "You have behaved more like a brute than a human creature, and the natives of this country must be taught that a white woman in the fields has to be treated just as she would be in the town. After all I have said, the sentence must be a severe one, and if you had been older the sentence would have been more severe." <sup>(517)</sup> The prisoner was sentenced to 14 years' imprisonment and a whipping of 40 lashes. While it is not clear whether he was found guilty of rape or attempted rape, it is clear that even the judge regarded the sentence as a severe one intended to remind Africans of their position in white colonial society.

In another case, an African by the name of Ukani was charged with an indecent assault upon a twelve year old white girl who was employed as a nurse girl in a Bulwer Road home. It was alleged that the prisoner, who was also employed at the

<sup>516</sup>. NM, 10 June 1886.

<sup>517</sup>. NM, 17 March 1886.

house, had entered a bedroom while the girl was busy making the bed and had knocked her down onto the bed and committed an indecent assault. The jury retired for about 13 minutes and brought in a unanimous verdict of guilty. They considered the prisoner's statement that he had been seduced by the girl to be an aggravation of the crime. He was sentenced to 10 years' hard labour and 50 lashes. <sup>(518)</sup> Cases of this nature plunged race relations in the Colony of Natal to an all-time low. They seemed to confirm what the white man had always 'known' about the local African population; that Africans were fundamentally savage, immoral and not to be trusted. Even apparently faithful servants should be watched closely and not allowed to grow too close to the family. The old adage that "familiarity breeds contempt" appeared to be proven time and again during rape scare periods.

On 4 December 1886 a public meeting, described as "the largest and most determined that has ever been held in Durban", was held in the Durban Town Hall to discuss the "social pest". <sup>(519)</sup> The popular indignation was provoked by the perceived "alarming frequency of criminal assaults" by Africans upon white women, which had "culminated almost into fury" after the assault near Addington. <sup>(520)</sup> The meeting passed a number of resolutions:-

- 1) It expressed its horror at "the foul crimes committed on our women and female children" and called on the Government to take immediate steps to satisfy an indignant public by immediately enacting such amendments of the existing law as would provide for the speedy trial, and, on conviction, the public infliction of the full death penalty in all proven cases of rape.
- 2) That in all cases where "brute force is used criminally against weakness", particularly in cases of attempted rape or indecent assault, public flogging appeared to be the appropriate punishment.
- 3) The establishment, at a "convenient distance" from town, of "Native Locations" which would be under proper police supervision.
- 4) The Legislative Council would be petitioned to give its support to a bill to provide for the Registration of Natives in Boroughs and Townships.
- 5) The Town Council would be requested to enforce existing bye-laws, or else to pass new bye-laws for the purpose of preventing loitering about the town and for keeping the footpaths clear for ordinary traffic. A request would be made to the Mayor to issue a circular to householders, calling their attention to the

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<sup>518</sup> . NM, 11 Feb. 1886.

<sup>519</sup> . MM, Dbn, 1887.

<sup>520</sup> . Ibid. During the latter half of 1886 and the early part of 1887 indecent assaults were not that frequent in Maritzburg. There was no wave of attacks as in Durban.

necessity of more careful and prudent domestic arrangements in connection with their African servants. <sup>(521)</sup>

The Mayor of Durban, W.E. Robarts, said that it was "a matter of congratulation" that the movement promoted by this and other meetings had led to the enactment of a law (Law No. 27 of 1887) enforcing the heaviest punishments for "these detestable crimes". <sup>(522)</sup> He believed that the frequency of criminal assaults by Africans showed "the urgent necessity of more complete control, and better means of identification of the natives resident in our Borough." <sup>(523)</sup> As usual, the watch-word of Natal's colonial administrators when dealing with the "Native Question" was CONTROL. Robarts considered that "no constitutional effort should be spared, which will secure the required control." <sup>(524)</sup>

In December 1886 the Maritzburg Corporation published some guidelines for local residents in order to assist them in their dealings with Africans:

The attention of householders is hereby directed to the necessity for more prudent and careful arrangements in connection with native servants employed within the borough. Also to the necessity for such servants being always properly clothed, and taught to behave themselves respectfully towards their employers. It is requested that, as far as possible, where native boys are entrusted with the care of female children, they be under the supervision of some adult member of the household. <sup>(525)</sup>

The Corporation also asked burgesses to communicate to their African servants the contents of the various bye-laws bearing upon the control of Africans.

At the end of 1886 a Female Protection Society sprung up in Maritzburg, formed by a group of young men who aimed at protecting white females at night. According to the Times of Natal, they operated as follows: "They march up one side of the street and not a native is allowed to pass them on the footpath without a warning to keep on the road." <sup>(526)</sup> This strategy had apparently "taken effect on the natives." <sup>(527)</sup>

During the last few months of 1886 and the early part of 1887 all that was worst about the "kafir social pest" appeared to rear its ugly head in Durban in particular

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<sup>521</sup> . MM, Dbn, 1887.

<sup>522</sup> . Ibid.

<sup>523</sup> . MM, Dbn, 1887.

<sup>524</sup> . Ibid.

<sup>525</sup> . NM, 13 Dec. 1886.

<sup>526</sup> . cited in Ibid.

<sup>527</sup> . Ibid.

and in Maritzburg to a lesser extent. The white residents of these towns came to believe that they were under siege from the sexual licentiousness of local African males. Cases of indecent assault, indecent exposure, rape and house-breaking with unlawful intent flooded the columns of the colonial press, serving to reinforce and exacerbate the white man's stereotype of Africans as being savage, uncultured, sexually aggressive and immoral, and lacking in respect for the 'superior' white race. Of the 18 cases brought before the Durban Circuit Court in February 1887, 12 were for offences of a sexual nature. All the defendants were African men:-

- 1) Umoyeni - house-breaking with intent.
- 2) Usabi - indecent assault.
- 3) Umkonto - house-breaking with intent to commit a rape.
- 4) Usiqenyana - assault with intent to commit a rape.
- 5) Mandeka - assault with intent to commit a rape.
- 6) Umpisini - house-breaking with intent.
- 7) Ukula - assault with intent to commit a rape (Congella case).
- 8) Mahlatyana - indecent assault.
- 9) Mafindo - attempt to commit the crime of house-breaking with intent.
- 10) Upoqobana - rape (Addington case).
- 11) Utonga - indecent assault.
- 12) Ugama - house-breaking with intent to commit a rape. <sup>(528)</sup>

Two cases in particular, the so-called Addington Rape Case and the Congella Rape Case, stirred up the passions and emotions of local whites to almost unprecedented levels. The overwhelming desire to avenge the depredations of these 'black barbarians' brought race relations in Natal to an all time low. In the Addington case, an African called Upoqobana was charged with having committed a criminal assault upon a white woman, Louisa Bunn, on 2 December 1886. Although there was a difference of medical opinion as to whether the crime had actually been committed, the complainant herself stated positively that she had been outraged. She also swore that the prisoner was the man who committed the assault. Justice Cadiz considered that the crime was almost worse than murder; at least the victim in the former case was gone, but in this instance the unfortunate girl had to "go about the world carrying with her the knowledge that she had been ravished by a low member of the human race." <sup>(529)</sup> In conclusion, he warned the jury that they must deal with the case according to the evidence and must set aside all thought of making an example of the prisoner merely because these offences were so rife. After retiring for ten minutes, the jury brought in a unanimous verdict of guilty. The man was sentenced to 20 years' imprisonment with hard labour and 20 lashes. The judge

<sup>528</sup>. NM, 2 Feb. 1887.

<sup>529</sup>. NM, 10 Feb. 1887.

noted that a bill had been passed (Law No. 27 of 1887) which prescribed the death penalty (hanging by the neck) for the crime of rape. He hoped that the Africans present in court would carry this message throughout the length and breadth of the land. Whether Upoqobana was guilty or not, it is true to say that the pressures on the all-white jury to find the defendant guilty were enormous. Given the emotion-charged atmosphere which prevailed in the colony at the time, it must have been extremely difficult, if not impossible, for the members of the jury to ignore their inherent racial bias against the African population and consider the case in an objective and rational manner. The white public absolutely clamoured for a finding of guilty and demanded that such 'savages' be severely punished.

In the Congella case Ukula was charged with attempting to commit a criminal assault upon a white woman on 7 December 1886. The woman swore that the prisoner was the man who had attempted to violate her, but had been interrupted before he could effect his purpose. The prisoner was alleged to have entered the woman's bedroom while her husband was away with the intention of grossly outraging her. A spotted handkerchief belonging to the man had been found at the scene of the crime. The man had two previous convictions against him for crimes of a similar nature. The judge warned the public that they should investigate an African thoroughly before taking him into their employ. The jury, without retiring, brought in a unanimous verdict of guilty. The man was sentenced to 15 years' imprisonment with hard labour and 50 lashes. <sup>(530)</sup>

The nature of sentencing remained as inconsistent as ever as judges appeared to protect the interests of white victims to a greater extent than the black victims of sexual attacks. The following cases provide a glaring example of this phenomenon: an African called Sowana, charged with indecently assaulting a little white girl, was sentenced to 10 years' imprisonment and 40 lashes, whereas an African by the name of Usikwata, charged with the rape of an African girl near Zwaartkop Location, received an eight year prison sentence and 40 lashes. <sup>(531)</sup>

Justice Cadiz, who presided over the above session of the Durban Circuit Court, was in no mood for leniency and was determined to impress upon the African mind that crimes of this nature would not be tolerated in any civilised society. He imposed the following penalties:-

- 1) Umoyeni, found guilty on two charges, namely house-breaking with unlawful intent and entering a bedroom with unlawful intent, was sent to gaol for three years with hard labour. The prisoner had allegedly been attempting to visit an

<sup>530</sup>. NM, 11 Feb. 1887.

<sup>531</sup>. NM, 5 Feb. 1887, 7 Feb. 1887.

African servant girl and had appeared surprised and frightened to find himself in the bedroom of the white daughter instead. The judge treated the case as one of simply house-breaking with unlawful intent. <sup>(532)</sup>

- 2) Usabi, charged with indecent assault upon a seven year old white girl, was imprisoned for eight years with hard labour and received a whipping of 30 lashes. The judge, in passing sentence, remarked that "there appeared to be an epidemic among the natives of assaults upon [white] women and children." The girl had apparently visited the stables to eat porridge with the African servants and had later complained of the assault. There were no witnesses. <sup>(533)</sup>
- 3) Umkonto, charged with the crime of house-breaking with intent to commit a rape, received three years' hard labour and 25 lashes. The man, who was a servant of the household, had apparently touched the legs of a 14 year old daughter of his employer by reaching through the open window. Mr. Janion, speaking for the defence, argued that he had never known a case with such weak evidence to be brought before the Durban Circuit Court. He contended that if the prisoner had entered the room, or had climbed up sufficiently high to touch the bed, there would have been marks to show it. He believed that the girl had been awoken by her little sister kicking about in the night and touching her leg. <sup>(534)</sup>
- 4) Usiqenyana, a Tonga African, charged with an assault with intent to commit rape upon an Indian woman, was sentenced to three years' hard labour. The prisoner had allegedly attacked the woman as she gathered castor-oil seeds around 11 o' clock in the morning. He had thrown her onto the ground, put sand in her mouth and grasped her by the throat. He had attempted to violate her, but the woman's resistance and the public nature of the place had prevented him from succeeding. A neighbour gave evidence that the woman had come to her soon after the attack. She testified that her wrapper was "very much torn" and that she had sand on her clothes. She was crying and had marks on her face. The witness had gone to the spot and seen the marks of a struggle. She confirmed that the woman was of good character. Although the victim positively identified her attacker, the jury, after retiring for only a few minutes, brought in a unanimous verdict of common assault only. Even Justice Cadiz expressed his disapproval of the "very lenient view" which the jury had taken of the case. There can be little doubt that the fact that the victim was an Indian woman influenced the decision of the jury. Given the nature of the evidence, it is almost incomprehensible that the jury did not

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<sup>532</sup> . NM, 12 Feb. 1887.

<sup>533</sup> . NM, 17 Feb. 1887.

<sup>534</sup> . NM, 12 Feb. 1887.

return a verdict of guilty of an attempted rape. Once again, it is clear that a sexual attack on an African or Indian female did not assume the same gravity in the minds and hearts of white colonials as when one of their 'own' women was the victim. (<sup>535</sup>)

- 5) Mandeka, charged with assault with intent to commit a rape on an 11 year old white girl, managed to prove an alibi and was acquitted. (<sup>536</sup>) The judge questioned how the magistrate had even sent the case for trial. In future, according to the new law (Law No. 27 of 1887), cases of indecent assault would be tried by the Resident Magistrates and only the more serious cases of rape would be referred to the Circuit Court. The result of this case suggests that the judicial system of colonial Natal, despite various weaknesses and limitations, primarily of a racialistic nature, was not merely a one-sided whitewash, but did possess much of the integrity normally associated with respectable legal systems.
- 6) Umpisini, charged with house-breaking with intent in that he entered the bedroom of a lady where he was engaged as a servant, was found guilty of house-breaking and was sentenced to five years' imprisonment with hard labour. The woman had awoken to find an African with his head and arms through her window, attempting to remove a sewing machine which allegedly obstructed his entrance. She had shouted "voetsac" two or three times, whereupon the man had jumped down from the window-sill and had issued a "kind of porcine grunt". She testified that "she had often heard the prisoner make this same grunt and she recognised him by that, and also by his general appearance, as far as she could see him, although she could not distinguish his face." The following morning she found that the bottom sash of the window had been pushed up and there were marks of a greasy foot outside the window on the verandah. The house dog, which was usually very noisy and "did not like kafirs", had not barked on the night in question, "probably because he knew the kafir." Constable Munger found footprints leading to the African huts. Despite the fact that the woman admitted that she could not swear to the man since she had not seen his features, the jury, after a 25 minute deliberation, found the man guilty of house-breaking. He received a five year prison sentence, which, given the circumstances of the case, must be regarded as extremely harsh. (<sup>537</sup>)

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<sup>535</sup> . NM, 15 Feb. 1887.

<sup>536</sup> . Ibid.

<sup>537</sup> . NM, 17 Feb. 1887.

- 7) In the famous Congella case, Ukula, charged with attempting to commit a criminal assault upon a white woman, was sentenced to 15 years' imprisonment with hard labour and 50 lashes. <sup>(538)</sup>
- 8) Mahlatyana, charged with indecently assaulting a five year old white child who was the daughter of his employer, was sentenced to eight years' hard labour and 40 lashes. The girl was described as "a bright little thing" and gave her evidence "in a clear, and simple child-like manner, which bore its own testimony with it." On the day in question, the family's white nurse had noticed that the girl looked very strange and her clothes were disordered. The girl had told her that the prisoner had been rude to her in the stables. The nurse girl gave corroborative evidence and deposed that the man had been rude to herself on a number of occasions by attempting to touch or hustle her. <sup>(539)</sup>
- 9) Mafindo, charged with house-breaking with unlawful intent, was found to be not guilty and was discharged. <sup>(540)</sup>
- 10) Upoqobana, charged with having committed a criminal assault upon a white woman at Addington, was sentenced to 20 years' imprisonment with hard labour and received 20 lashes. <sup>(541)</sup>
- 11) Utonga, charged with indecently assaulting an eight year old white girl, was sentenced to five years' imprisonment and 25 lashes. The girl, apparently with great difficulty, gave the particulars of the indecency in court. The jury, after retiring for a few minutes, returned with a unanimous verdict of guilty and recommended that, in view of the girl's tender years, the prisoner should be punished with the utmost rigour of the law. <sup>(542)</sup>
- 12) Ugama, charged with the crime of house-breaking with intent to commit a rape, was acquitted. <sup>(543)</sup>

In an editorial, the Natal Mercury called the February session of the Durban Circuit Court "one of the heaviest calendars of crime ... for some time past." <sup>(544)</sup> It expressed the hope and the expectation that the sentences inflicted in the above cases would have a beneficial effect in reducing this type of crime and that the sentence of death for the crime of rape would "totally exterminate the pest." <sup>(545)</sup> Once again the colonial authorities erred in their estimation that social problems could be either legislated away or driven away by stern punitive action. What the

<sup>538</sup> . NM, 11 Feb. 1887.

<sup>539</sup> . NM, 17 Feb. 1887.

<sup>540</sup> . NM, 14 Feb. 1887.

<sup>541</sup> . NM, 10 Feb. 1887.

<sup>542</sup> . NM, 11 Feb. 1887.

<sup>543</sup> . NM, 2 Feb. 1887.

<sup>544</sup> . NM, 22 Feb. 1887.

<sup>545</sup> . Ibid.

colony needed was the establishment of an objective commission to investigate the extent and causes of sexual immorality and sexual crimes in Natal. This commission could have made recommendations as to how these social problems might best be addressed to the advantage of all the various peoples living in the region. Such a commission, however, was never even contemplated by the colonial authorities, who preferred to sweep the touchy and embarrassing subject of sex firmly under their Victorian carpets.

While the rape crisis of 1886-7 was primarily an outdoor phenomenon, it did include several cases of house-breaking with intent to commit rape. The courts showed little mercy towards Africans who entered the homes of whites; the intentions of these burglars were almost invariably taken to be of a sexual nature and the sentences imposed were designed to discourage sexually aggressive behaviour on the part of the African population. For example, Seketwayo, an African, charged with unlawfully entering the bedroom of a white servant girl with intent to commit a rape, was sentenced to seven years' imprisonment with hard labour and a whipping of 40 lashes. <sup>(546)</sup> In a similar case, two Africans were found guilty of wrongfully entering the bedroom of a young white lady with unlawful intent and were each sentenced to five years' hard labour and a flogging of 36 lashes. <sup>(547)</sup>

In March 1887 the Attorney-General, M.H. Gallwey, reported that eleven cases of attempted rape or indecent assault by Africans upon white females, including cases of house-breaking with unlawful intent, had been tried during the previous year. There had been, therefore, no abnormal increase in the number of cases of this nature actually tried. He admitted, however, that during November and December 1886, and more especially in the town of Durban and its vicinity, several assaults of an indecent nature were committed by Africans upon white females, and popular indignation was intensely excited. The Attorney-General expressed grave concern about the situation:

There can be little doubt that this class of crime has of late increased to a very serious extent, and will, if not severely repressed, continue to increase. And though in most cases the assaults fortunately did not amount to actual commission of the extreme crime, yet, having regard to the numbers and social condition of the Native population, there is reason to fear such a spread of the crime as to become in the near future a menace to the white community throughout the Colony. It is to be regretted also that from unavoidable causes the number

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<sup>546</sup> . NM, 11 June 1885.

<sup>547</sup> . NM, 16 Oct. 1885.

of prosecutions affords no sufficient index of the number of offences committed or attempted. <sup>(548)</sup>

Durban's Superintendent of Police, Richard Alexander, regarded the Amatonga as the greatest source of crime in the borough. They were alleged to be the prime culprits during the rape scare periods. These Amatonga were refugees from the area north of Zululand (Tongaland), which from the late 1860s had been regarded as a valuable source of labour by Natal's labour-conscious colonists. As refugees, they were considered even more 'alien' and troublesome than Natal Africans, thus adding another dimension to the ethnic mix of colonial Natal. Of the 2 382 Africans arrested during 1887, less than a thousand were Natal Africans. In his report for 1887, Alexander claimed that "[The] habits [of the Amatonga] are lawless, their names assumed, and their homes untraceable. No matter what crime they commit, once outside the Borough they are free, whereas a Natal native, to escape, must forfeit home, family and property, should he possess any." <sup>(549)</sup> While a Natal African or Indian could be traced, the Amatongas were in no way registered, unless they happened to be "togt" labourers, and even then the registration of Jim, Sam or Tom, of Amatongaland, was meaningless.

While the rape scare of 1886-7 was taking place, the members of Natal's Legislative Council were furiously debating the causes, extent and possible solutions to the dreaded "social pest". There was a widespread, though erroneous, feeling among the white residents of Natal that the passage of appropriate legislation could solve the problem of the "social pest".

In November 1886 a Contagious Diseases Bill (No. 47 of 1886) was brought before the Legislative Council, giving rise to a sharp division of opinion. <sup>(550)</sup> Certain opponents of the bill, such as Mr. Hulett, argued that the bill legalised, sheltered and promoted vice, while others pointed to the possibility that gross wrong could be done to an innocent woman. Motives of spite, malice or revenge might expose an innocent woman to the stigma of aspersion, or to the moral torture of examination. Petitioners to the Legislative Council claimed that the bill was opposed to the principles of morality and was subversive of the civil and social freedom of her Majesty's subjects. <sup>(551)</sup> The bill did not pass in 1887, but reappeared before the House three years later in 1890.

<sup>548</sup>. NBB, Vol. 1, 1886.

<sup>549</sup>. Police Report, MM, Dbn, 1887.

<sup>550</sup>. This bill is discussed in detail later in this chapter.

<sup>551</sup>. NM, 24 Jan. 1887.

On 24 November 1886 Mr. Robinson moved that the Governor be requested to appoint a commission to take evidence and report upon the laws relating to the treatment of cases of criminal assaults upon females, in order to provide for the better protection of white women and children. In his opinion, there was no question of more gravity and more importance, or which came home more to nearly every home and every heart in the community. In an emotional speech, Robinson argued that as a community they were labouring under "a form of social terrorism" which had no counterfeit in any other colony under the British crown. From time to time they were horrified by instances of assault on unprotected children, which caused "the blood of the community to curdle, and ... every heart to boil with indignation and horror that such things are possible in a British community claiming to be civilised." <sup>(552)</sup> Natal had become a country in which a man could not leave his home unprotected by any male occupant without "an amount of anxiety and apprehension that I would not like to describe." <sup>(553)</sup> In addition, it had become a country in which "you cannot allow your women or young children to go out even in the broad street in the glare of daylight without masculine protection, a country in which females live in a state of constant terrorism." <sup>(554)</sup> Speaking as a father of a family, Robinson doubted whether he would ever choose to emigrate to Natal.

Robinson believed that two aspects of the matter in particular needed to be addressed:-

- 1) They needed to discover a mode of punishment which would serve as a deterrent. Since this crime was of so exceptional a character and prevailed to so exceptional an extent, it ought to be dealt with in an exceptional manner. Capital punishment was provided for in terms of existing legislation, but did not appear to be working.
- 2) The evidence of the chief witnesses in these cases should be taken *in camera* in order to prevent the further humiliation of the victim.

Robinson concluded his lengthy address with an emotive appeal to the members of the House to do something to protect "the honour of our women, to shield the innocence of our children, and to preserve inviolate from savage lust the domestic sanctity of our homes." <sup>(555)</sup>

On 21 December 1886 the Governor of Natal, A.E. Havelock, published a Message (No. 75, 1886) on the subject of the spread of the crime of rape. The Government recognised the increasing prevalence of the crimes of rape and of attempt to commit

<sup>552</sup>. LC, 24 November 1886.

<sup>553</sup>. Ibid.

<sup>554</sup>. Ibid.

<sup>555</sup>. Ibid. For further details of the debate see LC, 24 November, 6 December, 9 December 1886.

rape, and had, therefore, prepared a bill for the protection of females and for the repression of these crimes. Although the punishments previously inflicted had been severe, in view of the necessity for "severe repression of a growing evil", it had been deemed proper for the protection of society, to introduce legislation of "an exceptionally stringent character".<sup>(556)</sup> A Bill ("To regulate and define the punishment for the crimes of Rape and Assault with intent to commit Rape and of Indecent Assault", No. 55, 1886) was duly introduced into the Legislative Council<sup>(557)</sup> and passed into law in January 1887 as Law No. 27 of 1887. The principal terms were as follows:-

- 1) Every person convicted of the crime of rape shall be sentenced to be hanged by the neck until he is dead.
- 2) Every person convicted of the crime of assault with intent to commit rape shall be liable to be transported beyond the seas for the term of his natural life, or for any term not less than 15 years. If the sentence of transportation cannot be carried out, the prisoner shall be imprisoned during the term of his natural life, or for such term of years not less than ten years with hard labour and with or without a public flogging as the court may see fit.
- 3) Every person convicted of an indecent assault upon any female shall be liable to be imprisoned for any term not exceeding two years with or without hard labour, or if a male, to a whipping not exceeding 36 lashes. Such offender may be punished both by imprisonment and whipping.<sup>(558)</sup>

By this time, the dual morality of Natal's white colonist had become legendary. He saw no contradiction in legislating against African rapists while at the same time attempting to pass a law which allowed the troops of Pietermaritzburg to pursue the town's prostitutes. The Natal Witness drew attention to this contradictory morality: "The Legislative Council yesterday morning practically passed a measure for punishing animal sensuality on the part of natives [Rape Bill]. In the afternoon it passed a measure for the purpose of encouraging animal sensuality on the part of Europeans [C.D. Bill]."<sup>(559)</sup>

As the emotions of Natal's white population ran high, so the solutions offered to the problem of the "social pest" became ever more bizarre. One correspondent to the Natal Mercury suggested that several young men should assume the garb of the opposite sex and during some dark night traverse a secluded spot in the hope of

<sup>556</sup>. NBB, Vol. 1, 1886.

<sup>557</sup>. NGG, 21 Dec. 1886. For details of the debate see LC, 14 December 1886, 11 January 1887.

<sup>558</sup>. NGG, 15 March 1887.

<sup>559</sup>. NW, 15 Dec. 1886.

attracting an attack. The unexpected "hot reception" would hopefully deter other prospective attackers. <sup>(560)</sup> Another correspondent called for the establishment of a pistol practice club for the white ladies of the Berea. Not only would they learn to defend themselves against African sexual marauders, but the club would also serve as a form of recreation. Again, it was hoped that the thought of a bullet would act as a deterrent to aspiring African rapists. <sup>(561)</sup> More mature observers pointed to the clumsiness and ineffectiveness of the existing laws and suggested that a special enactment should be passed to deal with this class of crime. The perception of many whites was that the nature of colonial law merely served to encourage "kafir depredations"; in many instances culprits were apprehended, but often escaped punishment through some technical blunder in the indictment or some other legal quibble. <sup>(562)</sup> It was widely believed that the gravity of the offence needed to be impressed upon the African mind by the strict imposition of death or mutilation in all cases of sexual assault. <sup>(563)</sup>

Another correspondent to the Natal Mercury pointed out that the Cape Colony was comparatively free of the social curse. There were, in his opinion, two reasons for this state of affairs. Firstly, a Location Act was in operation in the Cape. In terms of this Act, municipalities set aside a piece of ground outside the towns for Africans to live on. This enabled the men to live with their wives and not apart as was the custom in colonial Natal. Under the former arrangement, Africans were allegedly more settled and worked more regularly than they did in Natal. An employer was allowed to accommodate his servant on his own property if he so desired. He suggested that the implementation of a Location Act in Natal would be a "fairly effectual remedy" for the social pest. Secondly, in the Cape Colony African women were employed as domestic servants and nurses, whereas African men generally fulfilled these functions in colonial Natal. It was believed that white Natalians should endeavour to employ African women; the thinking was that if African men did not rub shoulders with white women in the domestic environment, they would not grow so familiar and the opportunities for committing indecent acts would be reduced. <sup>(564)</sup> Some white residents, however, defended their "kafir nurse boys", claiming that they never had any problems with them. They regarded African male domestic servants as the best that were available; white female servants were either scarce or

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<sup>560</sup>. NM, 6 Oct. 1885.

<sup>561</sup>. Ibid.

<sup>562</sup>. NM, 8 Oct. 1885.

<sup>563</sup>. Law No. 27 of 1887 provided for the death sentence for both rape and, at the discretion of the court, assault with intent to commit rape.

<sup>564</sup>. NM, 28 June 1886.

demanded too much money, while Indians were regarded as "far less to be trusted with the care of children than kafirs." <sup>(565)</sup>

Others blamed the magistrates of Natal for failing to enforce the law with sufficient vigour. In 1892 the Transvaal Times castigated these men, claiming that this was reason enough to prevent the colony from acquiring self-government. It went on to explain its viewpoint: "They want men in Natal. The squeamishness of judges who are afraid to inflict the punishment of death when they know not how long their daughters are to be safe from the terrible curse which has made Durban and Maritzburg bye-words in South Africa, is quite incomprehensible to an Afrikaner. In this country [the Transvaal] there is fortunately only one punishment for criminal assault, and that is death." <sup>(566)</sup>

Men of religion joined the debate on the causes of the social pest. At the Diocesan Missionary Conference it was mooted that the principal cause of this phenomenon was the fact that a large number of young African men was allowed to enter the colony without bringing their wives with them. These "strong, healthy, vigorous young men" were considered to be "unprotected from temptation". <sup>(567)</sup> Access to alcohol and undue familiarity with African servants were also deemed to be causes of the social pest. The Transvaal Advertiser warned its readers about these factors: "It is certainly a fact, that wherever the Zulu has ready access to liquor, and is pampered into a confidential servant, or coloured equal, this crime becomes a terror." <sup>(568)</sup>

Whites who took the law into their own hands were often let off rather lightly by judges who appeared to be as caught up in the emotion-charged atmosphere of a rape scare period as the rest of the local white residents. <sup>(569)</sup> For example, five whites were charged with sjamboking an African at Pinetown; they thrashed him for allegedly acting indecently towards a white girl. Magistrate W.P. Jackson addressed the court on the inadvisability of taking the law into one's own hands, but felt that in this case the defendants had acted "under great excitement, which at the time was

<sup>565</sup> . NM, 14 Dec. 1886.

<sup>566</sup> . Transvaal Times. cited in NM, 22 Oct. 1892.

<sup>567</sup> . NM, 11 Feb. 1893. Throughout the colonial period, African men, rather than women, made up the majority of domestic servants in the homes of the white colonists. Many of these men would have been single, while the married men left their womenfolk in the reserves to carry on the traditional system of subsistence agriculture.

<sup>568</sup> . Transvaal Advertiser. cited in NM, 28 Oct. 1891.

<sup>569</sup> . In America during 1891, 150 negroes were lynched, seven burned alive, one flayed alive and one disjointed for assaults on women. NM, 26 July 1892.

moving the whole colony." (<sup>570</sup>) He therefore inflicted a nominal fine of £1 or 20 days' imprisonment with hard labour on each man. While it is probably true that these men were affected by the passions permeating the colony, there can be little doubt that if the situation had been reversed (i.e., a group of Africans had attacked a white for an alleged sexual attack on an African girl), the judge's sympathies would not have been so evident and the extenuating circumstances would not have carried so much weight. To an extent, the white judges of colonial Natal, like the majority of the white colonists, were victims of their own upbringing, which had taught them about racial exclusivity and the superiority of the white, Anglo-Saxon culture. Without being deliberately dishonest or biased, they were usually merely doing what they considered to be right, within the limitations of their own Victorian perspective on the world.

By about April of 1887 the rape crisis had ebbed once again and life in colonial Natal returned to its usual steady pace. During that month, the criminal session of the Durban Circuit Court reflected only seven cases, none of which was for an indecent offence. (<sup>571</sup>) From this time onwards, until the end of the period of this study, white women and children appeared to be virtually safe from the ravages of African marauders. (<sup>572</sup>)

Although the rape crisis of 1886-7 differed fundamentally from the crisis of 1866-71 in that it was primarily an outdoor phenomenon, the explanation for both events remains essentially the same. After struggling through five years of depression (1882-6), white colonial society was undoubtedly suffering from a high degree of anxiety. Given the perceptions which the white man held about the nature of black sexuality and the many fears which he entertained about the swarming mass of Africans who lived in the region, it is easy to understand how a few minor incidents could precipitate a moral panic of serious proportions. As with the crisis of 1866-71, a number of the outrages were no doubt real, but it is also true to say that in both periods a highly nervous society allowed its imagination to run away with itself. The white population came to believe, quite literally, that there was a dangerous African behind every bush, waiting to perpetrate some sexual outrage on unsuspecting white women and girls. The Natal Witness was sensitive to the fact that in such an emotionally charged atmosphere exaggeration and fabrication were rife: "In respect of matters about which strong feeling exists, there must always be a tendency to

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<sup>570</sup> . NM, 12 Jan. 1887.

<sup>571</sup> . NM, 13 April 1887.

<sup>572</sup> . Maritzburg had suffered only a mild rape scare and during the remainder of 1887 the majority of cases were black on black indecent assaults with the occasional assault on little white girls.

exaggerate the facts. There will also be a tendency, of which we fancy symptoms have been apparent already - to imagine the commission of offences where none have [sic] been committed." <sup>(573)</sup> To a large extent, economic and racial fears were translated into sexual fears. As Natal began to recover from the period of depression, so the threat of "kafir outrage" began to recede.

By the time Natal experienced its second rape crisis (1886-7), there was still a large discrepancy in the number of African men and women living in the Borough of Pietermaritzburg (2 778 men and 311 women). There remained, therefore, a real shortage of African women in the town and it is possible that Maritzburg's African men looked to the white women to satisfy their sexual appetites. Population figures for the Borough of Durban are unfortunately not available, but it is estimated that by 1886 there were approximately 4 000 African men and 300-400 African women living in this area. Thus it is feasible that Durban's African men also lamented the shortage of women of their own colour and began to cast their nets further afield, in the direction of their white mistresses. There is no doubt that many colonists believed that this disproportionate balance between male and female Africans was a major cause of "kafir outrages". Calls were frequently made to employ more African women, rather than men, in order to create some sort of balance between the sexes. These women would also be a safer labour investment in that they would not carry out sexual attacks against white women and children. Unfortunately for the white residents of the major towns, African women were not available to move to the towns in order to work for the white man. In terms of their culture, they were required to carry out a number of traditional duties at home, their principal function being to sustain the subsistence mode of agriculture. The majority of African women who moved to Durban during the period under review came to experience the freedom and delights of 'city' life, not to bind themselves to white employers. Many of these women were young (late teens to early twenties) and turned to prostitution to sustain themselves. Because of the presence of large numbers of black prostitutes in towns like Durban, African men probably felt neither the need nor the desire to sexually molest unwilling white women. It is likely, therefore, that the shortage of African women in Durban did not cause African men to rape white women, but it may have been partly responsible for the rape scare as white Durbanites, having knowledge of the disproportionate gender balance of the town's African population, perceived themselves to be under some sort of sexual attack from sexually-starved African 'barbarians'. The question of control and dominance was also still very much part of the white colonial psychological composition. Whenever the dominant culture felt that their control of subject people was under threat, bouts of panic about the welfare of their women were a likely result.

<sup>573</sup>. NW, 25 March 1886.

By 1887 many colonists appeared to hold the opinion that the African race was almost beyond redemption. The effect of the Native Policy on the African was widely considered to have been disastrous: "So far from the natives being more civilised and industrious, they are as barbarous, a great deal less honest, more indolent, immoral, and insubordinate than they were in 1850." <sup>(574)</sup> It was claimed that they had degenerated from their original condition (before the white man came) and were now committing all the excesses of modern civilization:

...the social condition of our black population is deplorable. Drunken and libidinous excesses have arrived at a state almost incredible. The late Kafir chiefs, Panda, Chaka, and Cetywayo would have stood aghast could they have witnessed the demoralised state into which the race has drifted, and is still drifting. Insolent demeanour, larceny, stock stealing and killing, are yearly increasing under the supineness of our Legislature, and the perpetual constriction of magistrates' powers, legal and discretionary. <sup>(575)</sup>

In his natural state, the African was thought to be "a fine fellow, remarkably honest, respectful, and fairly industrious." <sup>(576)</sup> But the number of such Africans was reportedly diminishing by the day. The diamond fields, the railway works, the introduction of Indians, and above all, the town life were allegedly causing the demoralisation of the race. It was widely believed that Africans required firm and authoritative treatment, such as they used to receive at the hands of their chiefs. White people, however, had allowed a degree of familiarity to develop between themselves and their African servants which was rapidly demolishing the traditional esteem in which Africans had held the white man. It was feared that this state of affairs could threaten the very existence of white colonial society in Natal: "This familiarity, extending in all directions, is subversive of discipline and respect, and without which our existence will become impossible." <sup>(577)</sup>

Even the presence of Africans on the footpaths was repulsive to Natal's white residents. The Working Mens' Association submitted the following resolution to the Maritzburg Corporation:

That this Association is of opinion that the Corporation should be respectfully requested to instruct the Borough police to use such measures as may be most effective to prevent the annoyance and inconvenience to which white females are constantly subjected in their passage along the footpaths of the City, by being jostled against and

<sup>574</sup> . NW, 19 Oct. 1887.

<sup>575</sup> . NW, 21 Dec. 1886.

<sup>576</sup> . Ibid.

<sup>577</sup> . Ibid.

obstructed by natives, and would suggest that the latter should be cautioned to use the outer or kerb side of the paths, if allowed to use them at all. <sup>(578)</sup>

As was so often the case in the colony, the white colonists felt that the Africans and Indians were nuisances who were obstructing the development of white society. They did not believe that they needed to share any facilities with their black counterparts. On the contrary, they regarded the towns in particular and the colony generally as their own.

In March 1888 the Attorney-General, M.H. Gallwey, reported that Law 27 of 1887, which imposed very severe punishments for the crimes of rape and attempted rape, had had "little beneficial effect" in reducing the incidence of these crimes. <sup>(579)</sup> In 1887 17 people were charged with these crimes, with nine convictions and eight acquittals. In 1886 there were nine persons indicted for these offences, of which six were convicted and three acquitted. He believed that juries were not disposed to convict where the punishments were so severe. During 1887 there was one conviction for rape on a white woman, the offence having been committed in 1886. The offender was sentenced under the ordinary law.

In the light of the apparent ineffectiveness of Law 27 of 1887, the Attorney-General introduced a new bill into the Legislative Council in August 1888, the "Rape and Indecent Assault Law Amendment Bill (No. 18, 1888). In November of that year the bill passed into law as Law No. 25, 1888, "To amend Law No. 27, 1887, entitled Law to regulate and define the punishment for the crimes of Rape and Assault with intent to commit Rape, and of Indecent Assault." The law repealed the sixth section of Law No. 27 of 1887. The amendment stated that

Such Registrar [of the Supreme Court] shall with all convenient speed lay the same [i.e. the details of the case and the sentence handed down in a lower court] before one of the Judges of the Supreme Court, who shall be empowered and required to revise the whole of such proceedings, to call for further explanation upon any point, to direct the proceedings to be brought before the Supreme Court, or to set aside, reduce, vary, or confirm the sentence and punishment awarded as to the said Judge may appear consistent with proper procedure, and real and substantial justice,... <sup>(580)</sup>

The defendant still enjoyed the right of appeal to the Supreme Court, both from the Magistrate's Court and the Supreme Court itself. The effect of the new law was that,

<sup>578</sup> . NW, 28 August 1888.

<sup>579</sup> . NBB, Vol. 1, 1887.

<sup>580</sup> . NGG, 20 November 1888.

in cases of this nature, the Supreme Court could now over-rule any decision of a Resident Magistrate's Court or a Circuit Court.

During 1888 only a single case of house-breaking and attempted assault appeared in the Natal Mercury, a clear indication that the sanctity of white women and children was once again secure. Attorney-General Gallwey reported that only three convictions had been obtained for rape during 1888, as against nine in 1887. There were four acquittals, which seemed to support his opinion that juries were slow to convict in cases where a conviction was followed by a mandatory death-sentence. There were no cases of rape committed upon white women and comparatively few cases of attempted rape or house-breaking with intent.<sup>(581)</sup> In the same year, an African and two Indians were each sentenced to death for committing the crime of rape in separate incidences. In the former case, an African called Ukufa was charged with criminally assaulting an African girl near the village of Umzinto. His sentence constituted the first capital sentence passed in Durban under the new law (Law No. 27, 1887) relating to criminal assault. The Lieutenant-Governor commuted the death sentence to 10 years' imprisonment with hard labour.<sup>(582)</sup> In the latter case, two Indians were charged with the rape of an Indian woman near the Umagmai River. Once again the death penalty was imposed and the Lieutenant-Governor commuted the sentence to 10 years' hard labour.<sup>(583)</sup> Both the above commutations of sentence represent the imposition of extremely lenient penalties. There can be little doubt that if the above rapes had been committed on white women, the sentence of death would have been carried out. During rape scare periods, sentences of 10 years' imprisonment or more were imposed on Africans who were only guilty of trespassing or house-breaking. The rape of an African or Indian woman seldom seemed to be quite as serious as the rape or sexual molestation of a white woman. This is part of the dual morality practised by the colony's white population.

1889 was another quite year on the immorality front with no reported assaults on white women by African men. Only two cases of rape and one of indecency found the pages of the Natal Mercury, constituting a year of peace and security for all the peoples of the region. In the first rape case, a white engine driver, Isaiah Stevenson, was charged with assault with intent to commit rape upon a white woman. He was sentenced to 10 years' imprisonment with hard labour, which was the minimum sentence prescribed by the new law (Law No. 27, 1887). Judge Connor remarked that "the new law was passed during a kind of panic which

<sup>581</sup>. NBB, Vol. 1, 1888.

<sup>582</sup>. NM, 11 August 1888.

<sup>583</sup>. NM, 16 Oct. 1888.

prevailed in the colony with reference to the natives, and which forced upon the Court a more severe sentence than the Court had been in the habit of giving." (<sup>584</sup>) The judge's statement is almost a public admission that certain laws in the colony were designed specifically with the black population in mind and were not intended to be applied to members of the white population. In the second rape case, an African by the name of Umjakeni was charged with the crime of rape upon an African woman. The jury returned a verdict of guilty of assault with intent to commit a rape, but strongly recommended the prisoner to the mercy of the court on account of his youth and the treatment he had received. He was sentenced to 10 years' imprisonment with hard labour. (<sup>585</sup>) It is interesting to note that in the above two cases of attempted rape (one white on white, the other black on black), Judge Connor did not discriminate in the severity of sentence which he handed down to each of the guilty parties. He did, however, think that the sentence which the law compelled him to pass on the white assailant was somewhat harsh. It is extremely unlikely that a white judge would ever lament from the bench that a sentence on an African rapist (on a white woman) was unnecessarily harsh. Likewise, a white jury was unlikely to recommend mercy in a case of black on white assault with intent to commit a rape.

In 1889 the Pietermaritzburg Town Council published various amendments to the General By-Laws of the City and Borough of Pietermaritzburg. (<sup>586</sup>) Two of these laws are of particular interest:-

Bye-Law No. 66 - "... every person wilfully, openly, lewdly, and obscenely exposing his person in any street, road, or public path, or in view thereof, or in any place of public resort; every person publicly behaving in an indecent manner, ... shall be deemed an offender within the true meaning of these By-Laws." (<sup>587</sup>) The penalty for contravening this By-Law was the imposition of a fine not exceeding five pounds sterling, or imprisonment with hard labour for any time not exceeding three months. Although the rape crisis of 1886-7 was long over, the residents of Maritzburg still felt it necessary to legislate against indecent exposure and behaviour. Legislation always made Natal's white population feel more comfortable and secure.

Bye-law No. 67 - "No native shall practice the system of *qoma*, i.e., solicit or importune native females for amatory purposes; nor shall in any way interfere with females of his own class, so as to cause annoyance to foot passengers or obstruct

<sup>584</sup>. NM, 11 April 1889.

<sup>585</sup>. NM, 15 April 1889.

<sup>586</sup>. Meeting of Town Council, 27 March 1889.

<sup>587</sup>. NGG, 21 May 1889.

free traffic in the streets of the City." <sup>(588)</sup> The penalty for contravention was imprisonment, with or without hard labour, and with or without spare diet, for any period not exceeding three months, or to pay a fine not exceeding 10 pounds sterling. In default of payment of the fine, the imprisonment clause would apply. As with the previous law, By-law No. 67 was intended to make life in Maritzburg that much more pleasant for the town's white residents. Whites, believing most strongly that the footpaths belonged to them, did not want these walk-ways to be cluttered with Africans who appeared to be 'chatting up' their female counterparts.

In May 1889 Hulett moved the amendment of certain clauses in Law No. 27, 1887, entitled "Law to regulate and define the punishments for the crimes of rape and assault, & C." <sup>(589)</sup> He noted that the bill had been passed during a period of considerable panic created by various serious assaults upon females in the colony. The consequence was that the Legislature had been asked to pass a very stringent law whereby the punishment of crimes of this sort would be more clearly defined. Drawing attention to the first two clauses of the law, he argued that they were "dangerous in the extreme", considering the varied character of the people of the colony. <sup>(590)</sup> The population of Natal consisted of not only a settled white population but also a very large floating population. There was a large population of Indians and an immense African population. He claimed that "all those who are acquainted with the varied peculiar customs amongst the Natives of this Colony can readily understand that for purposes of injury a very large amount of false testimony can be brought to bear in any Court of Justice." <sup>(591)</sup> Hulett felt that the judge should have some discretionary power and not be compelled to pass sentences of a very severe character.

The Acting Colonial Secretary supported Hulett's motion, arguing that the Law (No. 27, 1887) had been passed in a period of panic and required reconsideration "now that we are in a calm spirit." <sup>(592)</sup> The House agreed that a Respectful Address should be sent to the Lieutenant-Governor on the subject of Law No. 27 of 1887.

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<sup>588</sup> . Ibid.

<sup>589</sup> . LC, 1 May 1889.

<sup>590</sup> . Ibid. Clause one prescribed hanging for the crime of rape. Clause two stated that persons convicted of the crime of assault with intent to commit rape were liable to be transported beyond the seas for the term of their natural lives, or for any term not less than 15 years. If the sentence of transportation could not be carried out, the prisoner would be imprisoned during the term of his natural life or for any period not less than ten years with hard labour, with or without a public flogging.

<sup>591</sup> . LC, 1 May 1889.

<sup>592</sup> . LC, 8 May 1889.

Eventually Law No. 17 of 1889, the "Prevention of Rape and Indecent Assaults Amendment Law", was passed in order to amend Law No. 27 of 1887. Section two of Law No. 27, 1887, was repealed and it was enacted that every person convicted of the crime of assault with intent to commit a rape would be liable to imprisonment with or without hard labour for any period not exceeding ten years, and with or without a flogging of so many lashes as the court might see fit to be inflicted.

Towards the end of 1889 Superintendent Alexander reported to the Durban Corporation that Africans were once again beginning to make indecent overtures towards white women. He complained that his constables were rendered almost powerless to prevent these occurrences by the leniency shown offenders and the encouragement offenders received from employers. He criticised white employers for granting passes to their Africans enabling them to go about after appointed hours. <sup>(593)</sup> White Natalians still believed that Africans needed to be tightly controlled so that they would not pose a threat to the lofty civilised standards of colonial Natal.

The following table reflects the number of cases in which Africans were convicted for committing sexual crimes in the Borough of Durban during the period 1880-9:- <sup>(594)</sup>

Convictions of Africans for Sexual Crimes  
Committed in the Borough of Durban (1880-9)

	<u>Unnatural Total Crime</u>	<u>Rape</u>	<u>Indecent Conduct</u> <sup>(595)</sup>	<u>Indecent Assault</u> <sup>(596)</sup>	
1880	2	0	-	-	(2)
1881	1	0	-	-	(1)
1882	1	0	379	-	(380)
1883	1	0	200 <sup>(597)</sup>	7	(208)
1884	2	0	286	27	(315)
1885	0	0	156	4	(160)
1886	0	0	113	45	(158)
1887	0	1	173	256	(430)
1888	0	0	465	239	(704)
1889	No return was submitted for 1889				(-)
	(7)	(1)	(1 772)	(578)	(2 358)

<sup>593</sup> . NM, 8 Oct. 1889.

<sup>594</sup> . MM, Dbn, 1880-1889.

<sup>595</sup> . Indecent conduct committed in terms of section 20 of the bye-laws.

<sup>596</sup> . Indecent assaults, acts and language committed in terms of section 23 of the bye-laws.

<sup>597</sup> . The Police Report for 1883 cites 593 cases, while the 1884 Report lists only 200 cases for 1883. The latter figure is the more likely.

Unlike the table for the 1870s which shows that very few Africans were convicted for crimes of a sexual nature, the table above at least reflects heavy convictions to substantiate the cries of the white colonists that they were being severely threatened by sexually aggressive, barbaric African savages. In comparison with the 1870s (when 12 Africans were convicted), the crime of rape virtually disappeared from the criminal records, with only a single African being convicted of this crime during the 1880s. Indecent conduct and assault had, however, become significantly more important than during the 1860s. The incidence of indecent conduct fluctuated dramatically during the 1880s, peaking in 1888 when a massive 465 arrests were made. Strangely, during the rape crisis of 1886-7, the number of arrests for indecent conduct was much less than during most of the remaining years of the decade. Cases of indecent assaults, acts and language did, however, increase significantly during the rape scare, perhaps giving some substance to the fears and complaints of the colonists. But it is more likely that convictions increased in response to the scare and that the scare did not grow out of the increased number of Africans convicted of sexual crimes against white women and children. The enormous economic fears and anxieties which the colonists must have been experiencing after five years of severe depression were translated into racial fears, centering around the perceived aggressiveness and licentiousness of the African sexual appetite. A society under pressure often finds things to increase and exacerbate its level of neurosis. In this respect, the Colony of Natal was not exceptional.

According to the Mayor's Minute for the Borough of Durban, whites and Indians were almost exempt from indecent conduct, assaults, acts and language. During the 1880s only a single white was convicted of a sexual crime, while two Indians were convicted during the same period:-

Whites - 1881: one conviction for an unnatural crime.

Indians - 1881: one conviction for an unnatural crime.

1882: one conviction for an unnatural crime.

Throughout the 1880s the Police Reports attached to the Mayor's Minutes do not even mention indecent assaults committed by whites and Indians. The focus of attention was clearly on the sexual crimes committed by Durban's African population because these crimes appeared to threaten the peace and security of white society and even the future of the colony itself.

In 1888 the question of the registration of monthly African servants once again became a major issue. The Mayor of Durban, B.W. Greenacre, outlined the nature of the problem as follows:

The difficulties experienced by Burgesses in having any substantial check upon their native servants, who frequently abscond without any apparent cause, and the serious dangers incidental to employing in a family strange natives who not unfrequently [sic] are convicted thieves, induced this Council in 1886 to apply to the Government for its sanction to a system of registration, by which the identity of natives could be fixed and some wholesome control exercised over them. <sup>(598)</sup>

As a result of these anxieties, a law providing for the registration of Africans within the Boroughs of Durban and Maritzburg was subsequently passed by the Legislative Council, but "owing to opposition on the part of some Burgesses, too indolent to undertake the trifling trouble it entailed to attend to register their servants", its provisions were never put in force. <sup>(599)</sup> By 1890, however, the "evils attendant upon the presence of so large a number of native servants in our [the white residents of Durban] midst without the effective check which this law would supply, [had] become growingly so pressing" <sup>(600)</sup> that the Durban Town Council resolved to put the Registration Law into force.

Law No. 21 of 1888 authorised the Boroughs of Durban and Pietermaritzburg to establish a system of registration of African servants and servants belonging to "uncivilised races", employed by the day or month, or any longer period, or seeking employment within the respective boroughs. The term "uncivilised races" included all "barbarous and semi-barbarous" races and Indians who had been introduced into the colony as indentured labourers, regardless of whether they were still under indenture. The system of registration was enacted by bye-laws and the penalty for contravention was any sum not exceeding £2, or in default of payment, imprisonment for a period not exceeding two months, with or without hard labour. An employer who hired a servant without a registration ticket was liable to a fine not exceeding £2, and in default of payment to imprisonment for seven days. All fines and money penalties taken under the provisions of this law were payable into the Borough Fund, while the cost of maintaining in prison any servant who contravened the law was defrayed by the respective Corporation.

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<sup>598</sup>. MM, Dbn, 1890.

<sup>599</sup>. Ibid.

<sup>600</sup>. Ibid.

It was generally believed that any registration of African servants would have to be done in conjunction with the establishment of an African location or compound to house black workers in the 'white' towns. Durban's Superintendent of Police estimated that the town possessed a floating African population of at least 1 200 people without a known shelter at night. These Africans allegedly haunted the premises of employers of other Africans, leading to overcrowding and a gross insanitary condition. Mayor Hillier observed that the operation of such a law would "not only [secure for the borough] a constant supply of native and other servants, but would at the same time bring a large class of the population under more direct supervision and control." <sup>(601)</sup> The onus of registration would fall upon the African and it was thought that "in a short time [registration would] be accepted by the better class of natives as a certificate of good and constant service." <sup>(602)</sup>

The overwhelming desire of white colonists to establish and maintain control over Natal's black population was not a phenomenon peculiar to the 1880s, but dated back to the early colonial period. Mayor Greenacre reminded Durbanites of the necessity for registering African servants: "The frequency and facility with which native convicted thieves and other bad characters find their way into employment in stores and as domestic servants, there to repeat their offences, rendered it imperative to adopt some system of registration of these monthly native servants, to checkmate vicious characters, and to protect respectable natives and European employers alike." <sup>(603)</sup> The fundamental underlying motive behind registration was to maintain the fabric of white society and to ensure that the economic and political dominance of the white man was entrenched and safeguarded against the 'ravages' of 'black barbarism'. As in the previous decades of the history of the colony, the question of control remained the principal factor in the formation of urban "native" policy.

Thus ended a decade in which the Colony of Natal felt the full brunt of a number of social problems. The rape scare of 1886-7 had traumatised the white residents of the major towns, while the incidence of prostitution and social diseases had increased, particularly among the region's African and Indian people. The problem of togt labour had helped to focus attention on the best means of controlling the growing African urban population. Events had served to increase the fear and hostility with which white people regarded their black brethren.

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<sup>601</sup> . MM, Dbn, 1889.

<sup>602</sup> . Ibid.

<sup>603</sup> . MM, Dbn, 1891.

During 1890 the notorious "Social Pest" made a few skirting appearances on the colonial scene, but was soon condemned to obscurity once again. The Natal Mercury reported that cases of Africans molesting white women were again increasing, especially near the Back Beach bush and Cato's Creek. During a two week period three cases of attempted indecent assault were reported to the police. In addition, a dozen cases of Africans trying windows at night had been reported. Numerous Africans, having obtained passes from their employers, paraded the streets of Durban by night, while hundreds of African togt workers occupied every spare hut, shed or stable available. It was suggested that the best means to prevent an increase in sexual offences was to hasten the construction of the togt barracks, to discourage householders from issuing passes (except for their own convenience) and for magistrates to avail themselves of the full power given to them under the Vagrant Law to imprison without the option of a fine, all clear cases of vagrancy brought before them where idlers, or men of bad character, were found out after 9 p.m.. Superintendent Alexander advised residents that a good house dog was worth a dozen policemen. <sup>(604)</sup>

In the most serious case of the year, a white man called Richard Gillatt was found guilty of having committed a rape upon a six year old white girl and was sentenced to death (commuted to life imprisonment with hard labour). An editorial in the Natal Mercury considered that this crime had "shocked and horrified the community as no previous outrage of the kind has done since 1887." <sup>(605)</sup> It lamented that crimes of this nature committed by white men had the effect of reducing the respect which Africans felt towards their white masters: "The bitterest reflection is that the boasted superiority and civilisation of the white man stands unspeakably disgraced in the eyes of the barbarians around us." <sup>(606)</sup> Justice Turnbull, who presided over the case, also feared that such outrages threatened the impregnability of the white race: "We hear of these sort of things, but hardly anything of this dark hue, amongst the natives; and that they should learn that one of our colour should be found guilty of such a horrible crime must lower us in their eyes." <sup>(607)</sup>

In 1891 the Attorney-General, W.B. Morcom, reported that the number of cases of rape had not exceeded the average of the past few years. There had been eight cases of rape, with only three convictions. He observed that for the past three years there had been no cases of rape committed by Africans on white women. <sup>(608)</sup> In 1892 Morcom reported that there had been 11 indictments for rape during the past

<sup>604</sup> . NM, 4 July 1890.

<sup>605</sup> . NM, 25 Dec. 1890.

<sup>606</sup> . Ibid.

<sup>607</sup> . NM, 13 Feb. 1891.

<sup>608</sup> . NBB, Vol. 1, 1890-1.

year, but only three convictions had been obtained. In some of the cases, the jury had found the accused guilty of less serious crimes. <sup>(609)</sup>

Towards the end of 1892 cases of the social pest made a brief comeback and appeared set to stir up all the familiar anxieties, but the incidence of these assaults soon abated and the pest went into a period of renewed slumber. African men, who stopped to chat to African nurse women as they tended their young white charges, were perceived as a serious social problem because of the type of language they used and the subject matter of the conversations they initiated. A local African newspaper, Inkanyiso, agreed that such men were a menace to society: "the evil is on the increase, and we should rejoice to see some proper steps taken to put a stop to it. ... the serious mischief their conversation causes, not only in the minds of these girls, but in those also of their little charges." <sup>(610)</sup> The crime of indecent exposure constituted a further problem around this time. Justice Gallwey, sentencing an African man to two years' hard labour for indecently exposing his person in the presence of a white woman and making indecent proposals, remarked that this was a new species of crime and that it was necessary for the law to actively discourage such occurrences. <sup>(611)</sup>

The following table illustrates the number of convictions for indecent behaviour in the Borough of Durban during the period 1890-4:- <sup>(612)</sup>

	<u>Convictions for Indecent Behaviour in the Borough of Durban (1890-4)</u>					
	<u>1890</u>	<u>1891</u>	<u>1892</u>	<u>1893</u>	<u>1894</u>	<u>Total</u>
Whites	43	37	33	12	6	131
Indians	41	121	101	156	159	578
Africans	134	255	278	254	317	1 238
	(218)	(413)	(412)	(422)	(482)	(1 947)

Although the colony did not experience a full-blown rape crisis between 1890 and 1893, there was a mini-crisis during the depression years of 1890-2, during which time many of the old fears about the nature of African sexuality came to the surface once again. The figures above reflect this crisis, the number of Africans convicted for indecent behaviour more than doubling during this period. <sup>(613)</sup> It is also

<sup>609</sup>. NBB, Vol. 1, 1891-2.

<sup>610</sup>. cited in NM, 1 August 1892.

<sup>611</sup>. NM, 17 Oct. 1892.

<sup>612</sup>. MM, Dbn, 1890-1894.

<sup>613</sup>. The crime of indecent conduct or behaviour was not nearly as serious as those of indecent assault, acts or language.

interesting to note that the number of Indians convicted of indecent behaviour almost trebled during these depression years, but Natal's white colonists never perceived the Indian population as a sexual threat to their women and children.

The economic revival from 1892 onwards did not have any positive effect on the incidence of indecent behaviour and the number of Indians and Africans involved continued to increase through to 1894. The number of white offenders, however, declined throughout this period, reaching a lowly six cases in 1894. These figures appeared to confirm the 'facts' which white colonists had always believed, that Africans and Indians were prone to immoral conduct and that, by comparison, the white race was positively saintly and blameless. By 1893 Natal's white colonists were still trying valiantly to convert the Indian and African populations into good Anglo-Saxon charges, exhibiting all the 'worthy' characteristics and deep sense of 'morality' that made the English culture so 'valuable'. But their efforts, as in earlier decades, tended to end in failure, frustration and deep despair.

During 1890 debate over the question of a Contagious Diseases Bill was renewed and aroused as much passion and controversy as it had done back in 1886-7. The Acting Colonial Secretary, rather apologetically, moved the second reading of the Bill "For the Better Prevention of Certain Contagious Diseases" (No. 19, 1890). He said that the Government had given the matter the very gravest consideration and had obtained the evidence of "nearly every" medical man in the colony before introducing a bill of this nature. It was common knowledge that these diseases were increasing to "an alarming extent", that they were transmitted from generation to generation, and from towns to country districts, and that they were undermining the health of the African population to "an alarming extent". They were also transmitted "in an innocent manner to innocent children."<sup>614</sup>

The Acting Colonial Secretary moved that a Select Committee be appointed to consider and report upon the Contagious Diseases Prevention Bill (No. 19, 1890). The Committee would report in 14 days, a very short time for such an important investigation. The House agreed to the creation of such a Committee.<sup>615</sup> He noted that, with the exception of a single memorial against the bill from six non-conformist ministers, not a word had been said against the bill from any part of the colony. He condemned the memorial as "pure squeamishness on the part of those

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These latter crimes appear to be absent from the early 1890s.

<sup>614</sup>. LC, 4 June 1890. For details of the debate see LC, 4 June, 6 June, 27 June 1890.

<sup>615</sup>. LC, 6 June 1890.

gentlemen." <sup>(616)</sup> A disease such as this had to be stamped out; like leprosy, means had to be taken to eradicate it. Like the majority of white Natalians, he perceived the problem of venereal diseases in racial terms. He commented that "there would be no necessity for making this Bill applicable to males throughout the Colony, as well as to prostitutes in proclaimed districts, were it not for the Native element in our population." <sup>(617)</sup>

On 24 June 1890 the Select Committee (No. 15, 1890) on the Contagious Diseases Prevention Bill presented its report to the Legislative Council. <sup>(618)</sup> Its investigations revealed that venereal diseases were "more or less prevalent throughout the whole of the Colony" and that these diseases were spreading and would continue to spread unless steps were taken to arrest their progress. <sup>(619)</sup> Syphilis was described as a "loathsome disease" which was a source of danger to the whole community; its effects were not confined to present sufferers, but were transmitted to future generations. <sup>(620)</sup> Medical doctors referred to cases in which innocent white children had been infected with syphilis through contact with African (male) nurses. They also instanced cases in which whole families had been infected in this way, the results being "too loathsome and terrible to describe even in this Report." <sup>(621)</sup> It had been made clear to the Committee that syphilis could be communicated in many ways without sexual connection, for example, by kissing, by using the same towels or utensils, and by contact with open sores.

The Committee concluded that legislation was necessary in order to arrest the progress of, and, if possible, to stamp out venereal diseases. It noted that the provisions of the C.D. Bill, which had been referred to the Committee, applied to prostitutes only in certain proclaimed areas. It recommended that the bill be amended so that it would be applicable to males and females generally throughout the whole colony. The Committee was of the opinion that, if the bill as amended passed into law, there would not be any serious difficulty in carrying out its provisions, whilst the general results that might be anticipated would be highly beneficial to the whole community.

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<sup>616</sup>. LC, 27 June 1890.

<sup>617</sup>. Ibid.

<sup>618</sup>. The Committee consisted of the Acting Colonial Secretary, A.H. Hime (Chairman), Sir. J. Robinson and Messrs. Binns, Jno. Smith, Murray, Hartley and Moor.

<sup>619</sup>. Report of the Select Committee on the Contagious Diseases Prevention Bill. Sessional Papers, 1890, p. 1.

<sup>620</sup>. Ibid.

<sup>621</sup>. Ibid. Victorian prudery was still very much alive in the Colony of Natal.

The evidence given before the Commission provides an important insight into the nature and extent of prostitution and social diseases existent in Natal at the time. Dr. James Allen, the Surgeon at Grey's Hospital, testified that venereal diseases were very prevalent in the vicinity of Pietermaritzburg and that the majority of out-patients treated at Grey's Hospital were cases of venereal disease. The majority of patients was African (mainly males) who had contracted a virulent strain of syphilis. In his experience, Indians did not suffer as much from the disease, certainly not from the same violent type as the Africans. He thought it remarkable how little the white section of the population of Maritzburg suffered from these diseases. Allen estimated that there were not more than 20 white prostitutes operating in Maritzburg. He did not venture any estimate of the number of African prostitutes, but claimed that half-civilised African women, the products of mission stations, were very apt to become prostitutes. Africans appeared to make no attempt to cure themselves, not even through their own doctors. He believed that if African prostitutes were brought under supervision by means of a C.D. Act, this would lead to a large reduction in the incidence of disease. It was particularly important to effect some control over the young prostitutes. In his opinion, most of the older prostitutes had been under treatment for some time and even if they still had syphilis, they were unlikely to transfer it to their male partners. He argued that "There is a certain stage in this disease when, although the taint of the disease is in the blood of the person having it, still it is not very easily transmitted either from the male or the female." <sup>(622)</sup>

Allen testified that he came across numerous cases in which white children had been infected by their African male nurses. He did not think that these nurses would wilfully contaminate their charges, but they were unfortunately "entirely ignorant of the nature of the disease." <sup>(623)</sup> He said that the Africans had a habit of putting their tongues into the babies' mouths in order to stop their crying and in this way communicated the disease. He had even discovered children suffering from venereal disease in their private parts and attributed this to contact with the nurses, sometimes criminal contact. The children of syphilitic parents were generally puny and weakly. Thus venereal disease was capable of lowering the character of a race.

Dr. Charles Ward, the former District Surgeon of the Umgeni Division, testified that venereal diseases were prevalent in those areas where he had worked, especially the towns, and were "decidedly" on the increase. <sup>(624)</sup> He estimated that there were about 80 prostitutes in Maritzburg who were known to the police. Many of these women, who were incarcerated for crimes such as drunkenness and disorderly

<sup>622</sup>. Sessional Papers, 1890, p. 3.

<sup>623</sup>. Sessional Papers, 1890, p. 4. Africans called it *ukeefa abulungu* or the white man's sickness.

<sup>624</sup>. Sessional Papers, 1890, p. 15.

conduct, were infected with syphilis, but they were not cured because they were released from gaol after a few days. He believed that a C.D. Act could with benefit be introduced into Natal, but that it should apply only to prostitutes (black and white) living in Durban and Maritzburg.

William Fraser, the Superintendent of Police for the Borough of Pietermaritzburg, stated that the number of African prostitutes in the town had been reduced very considerably in recent years. A large number of the prostitutes, especially the African prostitutes, had travelled to Ladysmith and Newcastle because of the improved prospects for business which those towns offered. <sup>(625)</sup> He estimated that there were 50 African women, 12 whites and six St. Helena and Cape women practising their trade in Maritzburg. He was not aware of any Indian women who were professional prostitutes. <sup>(626)</sup> There were about 30 houses of ill-fame known to the police, ten of which were occupied by white prostitutes. Most of these houses were kept by women. About eight of the latter houses were kept by white prostitutes in their private capacities. Acknowledging that there was a bye-law which prevented the keeping of brothels in the town, Fraser stated that he had no desire to suppress brothels. He had never brought a woman before the magistrate under that bye-law alone. He recommended that the Imperial Government should use the most stringent measures possible for dealing with the soldiers and should provide a certain number of women, who could reside within the Camp or nearby. In essence, therefore, he recommended that prostitution should be legalised.

Fraser claimed that virtually all these prostitutes were well-known to the police and that if a C.D. Act was in operation, the police would have no difficulty in indicating to the inspectors those women who were prostitutes. As soon as an African woman became a prostitute, she was effectively banished from her tribe and was confined to the larger towns of Natal. She tended to remain in one town for a considerable time, until too frequent visits to the gaol necessitated her departure for greener pastures.

Fraser did not believe that the passage of a C.D. Act would diminish the number of prostitutes. Indeed, he thought that it would be inadvisable to reduce the number. On the contrary, he argued that they should do everything in their power to increase the number of prostitutes; this would allegedly have the effect of reducing the number of crimes which were "most loathsome to us". <sup>(627)</sup> Fraser recommended that

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<sup>625</sup>. The railway extension works provided a lucrative trade for prostitution.

<sup>626</sup>. He estimated that there were about 34 prostitutes in Ladysmith and about half that number in Newcastle.

<sup>627</sup>. Evidence given before the Select Committee on the Contagious Diseases Prevention Bill. Sessional Papers, 1890, p. 21.

the bill should apply to both females and males: "Speaking generally, we know that when a Native woman once comes into the town she gets to know these school Kafirs, and she soon becomes a prostitute. Once a prostitute, her trade is confined to the large towns, whereas the men go to and from their kraals. We know a Native is most unwilling to go to Grey's Hospital. He goes to his kraal, and there has an opportunity of spreading the disease. The fact of a Native male having the disease does not prevent his returning to his kraal." <sup>(628)</sup> In his opinion, these school boys were not only responsible for seducing African girls who came to town, but were also primarily responsible for spreading the venereal diseases. His impression was that Africans regarded venereal diseases in "a very light and airy manner". <sup>(629)</sup>

Richard Alexander, the Superintendent of Police for the Borough of Durban, also gave extensive evidence before the Commission. Although he tends to be very cagey and determined to portray Durban as the moral capital of the world, the commissioners did manage to extract some meaningful information from this experienced custodian of the law. Initially he claimed that he did not know of any recognised prostitute in Durban: "I do not trouble myself about prostitutes unless the neighbours complain, and I only know of one instance in which a particular house has been reported by the neighbours as a nuisance to the neighbourhood." <sup>(630)</sup> Later, however, he admitted that there were two professional prostitutes in Durban, a St. Helena and an Indian woman. He knew of only one white prostitute, but at the time she was being kept by a man. He admitted further that there were about 50 African women living as prostitutes in Durban, though he preferred to call them "a very easy-going lot" rather than recognised prostitutes. <sup>(631)</sup> These women had allegedly come to town to work as domestic servants, but had grown tired of work after a few months, had become "careless" <sup>(632)</sup> and had turned to a life of prostitution. <sup>(633)</sup> These women did not solicit business on the streets of Durban. Having stated in the earlier part of his evidence that he did not trouble himself with prostitutes unless the neighbours complained, Alexander went on to say that he did not allow prostitution in Durban. Whenever a complaint was lodged against a house, he ordered the woman to leave the neighbourhood within the week. The St. Helena woman was an acknowledged carrier of a contagious disease, but he

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<sup>628</sup> . Ibid.

<sup>629</sup> . Sessional Papers, 1890, p. 24.

<sup>630</sup> . Sessional Papers, 1890, p. 25.

<sup>631</sup> . Ibid.

<sup>632</sup> . Alexander's word for prostitutes.

<sup>633</sup> . Sessional Papers, 1890, p. 28.

believed that African prostitutes were freer from these diseases than they had been three years previously. <sup>(634)</sup>

When questioned on the subject of brothels, Alexander stated that there was "no recognised brothel at all" in the Borough of Durban. <sup>(635)</sup> Only the St. Helena woman would have to be removed. When asked whether there were any houses where an illicit traffic in women was known to be conducted, Alexander remained as determined as ever to portray Durban in a rosy light: "No. There are a number of huts occupied by Coolies on the Eastern Vlei, which are here and there let to Kafir girls who carry on prostitution. You can scarcely call these brothels, because it is a matter among the Natives themselves, which I do not interfere with." <sup>(636)</sup> Later in his evidence Alexander stated that there was nothing in Durban approaching to a brothel in the ordinary sense of the word, such as existed in England. He only knew of two houses, which were fortunately close together and in an out of the way place where there were not many neighbours: "The neighbours have no cause to complain, do not complain, and the Police shut their eyes." <sup>(637)</sup> Once again, Alexander appeared reluctant to confront the problem of prostitution in Durban, to whatever extent it actually existed. He was only prepared to confront those prostitutes who were guilty of disturbing the peace.

Although Alexander was in favour of a C.D. Bill which applied to men and women of all races, he was concerned that the bill be amended so that 'innocent' women who contracted a contagious disease would not lose their good characters entirely. He argued that there were "more poor unfortunate women who make a slip and get this disease by far than is the case with prostitutes." <sup>(638)</sup> He believed that African servant girls who contracted a disease from their young white masters should not be classed with women who lived by soliciting prostitution. In his view, the greatest number of cases of venereal disease in Durban was among the upper class of young white men. He estimated that there were about 20 of these men walking the streets of Durban at that moment who were "as bad as they possibly can be". <sup>(639)</sup> These men were being treated privately by their own medical officers.

Alexander believed that a C.D. Act would make people more careful. There was the possibility of making laws so stringent that no-one would dare to break them. Under

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<sup>634</sup>. Alexander said that he had only seen one or two cases of syphilis in Durban, but that there was a great deal of gonorrhoea in the town.

<sup>635</sup>. Sessional Papers, 1890, p. 25.

<sup>636</sup>. Ibid.

<sup>637</sup>. Sessional Papers, 1890, p. 31.

<sup>638</sup>. Sessional Papers, 1890, p. 27.

<sup>639</sup>. Ibid.

Cetshwayo the Zulus were probably the most moral nation in the world for the simple reason that to break the law meant death. If a woman living under Cetshwayo became a prostitute, she was "murdered straight off." <sup>(640)</sup> Alexander did not think that prostitution in Durban could be legislated away - "Prostitution will go on till the end of the world" <sup>(641)</sup>, but a C.D. Act could be a means of eliminating the accompanying diseases.

The nonchalant attitude of the two Superintendents of Police, William Fraser (Pietermaritzburg) and Richard Alexander (Durban), is surprising when one considers the prevalence of venereal diseases in the colony's two principal towns. Fraser stated that he had no desire to suppress brothels and had never prosecuted a woman on that charge alone, while Alexander said that he did not trouble himself with prostitutes unless the neighbours complained. Their application of the bye-laws borders on negligence and would not have been appreciated by white residents who demanded that social ills such as prostitution and venereal diseases be cleaned up before they began to decimate the white race. Perhaps Fraser and Alexander thought that they had the problem under control, though the increasing incidence of venereal disease suggests that this was not the case. A more likely explanation is that the Superintendents of Police paid little attention to these social problems because they were confined mainly to the black races, and therefore, the supremacy of the dominant white race was not threatened. If African and Indian prostitution and the accompanying diseases began to threaten the fabric of white society, then committed intervention on their part would have been forthcoming. While it is true that diseased labourers were incapable of productive work, the labour needs of white employers were generally satisfied; the importation of Indian labour after 1860, the use of Amatonga labour and the increasing availability of African labour from the mid-1880s onwards meant that the labour supply was sufficient. The prevalence of venereal disease among the Indian and African populations did not, therefore, appear to pose any direct threat to the well-being of local white residents.

The report of the Select Committee obviously had a positive influence on the Legislative Council with regard to the necessity for a C.D. Act and on 1 July 1890 the bill was read a third time and passed into law. In May 1891, however, the Contagious Diseases Act was disallowed by the Home (English) Government. At the time, Her Majesty's Government gave no reasons for their decision. <sup>(642)</sup>

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<sup>640</sup> . Sessional Papers, 1890, p. 32.

<sup>641</sup> . Sessional Papers, 1890, p. 33.

<sup>642</sup> . LC, 12 May 1891. The fact that the C.D. Acts had been recently repealed in England might have exercised a strong influence on the decision of the Home Government.

Sexually transmitted diseases, particularly syphilis, venereal disease and gonorrhoea, continued to exist in the colony during the period 1890-1893, but the threat was not of the same proportion as in earlier years. The concern appeared to have been turned with regard to the high incidence of venereal disease. White colonial officialdom continued to ignore the incidence of these diseases among members of the white population and instead focused their energies on upgrading the perceived moral condition of the Indian and African races. The table below, reflecting the number of patients treated for venereal diseases in the External Department of Grey's Hospital, according to race and gender, for the period 1882-1892, shows that a significant amount of immorality existed among the white residents of Maritzburg:- <sup>(643)</sup>

Patients treated for Venereal Diseases  
at Grey's Hospital(External Department)  
according to Race and Gender (1882-1892)

	<u>1882/3</u>	<u>1885/6</u>	<u>1887/8</u>	<u>1889</u>	<u>1890-1</u>	<u>1891-2</u>	<u>Total</u>
White male	45	95	78	17	26	17	278
White female	1	25	21	10	5	7	69
African male	125	238	270	100	85	81	899
African female	44	103	140	46	34	43	410
African infant	33	0	0	0	0	0	33
Indian male	10	29	101	52	36	42	270
Indian female	3	14	29	9	15	4	74
Others male	7	50	43	18	18	10	146
Others female	4	26	23	11	7	2	73
	(272)	(580)	(705)	(263)	(226)	(206)	(2 252)

A consideration of the population figures of the various ethnic groups for the Borough of Pietermaritzburg in conjunction with the above statistics for the out-patients treated at Grey's Hospital for venereal diseases, gives some indication as to the relative promiscuity of each population group:- <sup>(644)</sup>

<sup>643</sup>. NBB, Vol. 1, 1882-1892. Many of these patients were probably from the military camp. The figures for syphilis and gonorrhoea have been added together.

<sup>644</sup>. NBB, Vol. 1, 1882-1891. Total population represents the sum of the population for each race group for the years 1882-91, excluding 1884. Total venereal cases is the sum of cases for the same period.

Borough of Maritzburg: Ratio of Population  
to Venereal Disease (1882-91)

	<u>Total Population</u>	<u>Total Venereal Cases</u>	<u>Ratio of Population:Venereal</u>
Africans	39 372	1 342	29.3:1
Indians	14 688	344	42.7:1
Whites	76 863	347	221.5:1

The above table indicates that one out of every 221 whites living in the Borough of Maritzburg was liable to contract a venereal disease, one out of every 42 Indians and one out of every 29 Africans. In terms of the above calculation, therefore, African immorality (measured by the incidence of venereal disease) was one and a half times as great as Indian immorality and more than seven times greater than white immorality. <sup>(645)</sup> Thus it was understandable that Natal's white population believed that they were living in the midst of a morally-bankrupt population of Indians and Africans. Nevertheless, the incidence of white prostitution and immorality should have attracted more attention than it did. On the rare occasions when white moral standards were reviewed, the only concern appeared to be that whites were not always setting an appropriate example for Natal's black population to follow.

By 1890 there were five Indian Central Hospitals on the coast (at Verulam, Avoca, Umzinto, Isipingo and Stanger) and two in the upper districts of the colony (at Howick and Estcourt). The Protector regarded them as a "great boon" to employer and employee alike. Indians had apparently overcome their initial reluctance to enter these hospitals and were even prepared to admit their children for treatment. <sup>(646)</sup> Despite this improvement in the medical facilities, however, the social diseases continued to pose a threat to whites, Africans and Indians alike who were prone to immoral behaviour.

During the period 1890 to 1893 the reports submitted by the various medical circles confirmed that venereal diseases were still widely prevalent and in some areas were on the increase. <sup>(647)</sup> African girls and women who came to the towns to work were

<sup>645</sup>. This method of calculation has obvious weaknesses in that it only takes into account cases of venereal disease actually treated at Grey's Hospital. It takes no cognizance of those people who never reported for treatment and those who lived immoral lives, but did not contract a social disease. Despite these limitations, however, the above figures do serve as a general guide to the relative immorality of each race group in Maritzburg.

<sup>646</sup>. Report of Protector of Immigrants, NBB, Vol. 2, 1890-1.

<sup>647</sup>. See reports of district surgeons, NBB, Vol. 2, 1890-1893. It is important to distinguish between the number of cases

blamed for contributing significantly to the prevalence of such diseases by their loose standards of living.

The Government appeared to lack either the intellectual acumen or the resources, or both, to address these problems which were regarded in most quarters as being of a serious nature. Perhaps it was a lack of desire which prevented the colonial Government from tackling questions of a sexual nature. On the one hand, their Victorian instincts often persuaded them to steer clear of such potentially embarrassing ground, while, on the other hand, the fact that the majority of these problems (prostitution and social diseases) appeared to afflict the black races, was likely to convince white administrators and officials that they did not warrant such earnest attention. Only when social problems affected the white population were they seen in a serious light by the colony's white residents and her white rulers. Some commentators believed that prostitution actually served a positive function in society in that it provided an outlet for the sexual energies of the male population. Charles Barter, Resident Magistrate in the City division of Pietermaritzburg from 1880-90, once remarked that it would be very bad policy to cause African and white prostitutes to leave the town as, if there were none, the soldiers would break into people's houses and ravage ladies and their daughters. <sup>(648)</sup> This attitude might help to explain the basic reluctance of the colonial authorities to deal with the problem of prostitution. It is possible that there were others like Barter, men in positions of authority, who believed that prostitution was 'a good thing'. Some of these men probably visited ladies of ill-fame themselves and therefore had a vested interest in the maintenance of this facility.

Henry F. Fynn, the Resident Magistrate for the Umsinga Division, had some strong words to say about the state of African morality. Fynn regarded the act of *hlobonga* (external sexual intercourse) as indecent and immoral intercourse, as both disgraceful and unlawful by either sex. It was punishable by thrashing and confiscation by Native Law or by fine. As a result, *hlobonga* was practised in secret to evade discovery in dread of the consequences. In Fynn's opinion, the morality of the African population had reached a very low ebb:

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treated at the various hospitals and the perceptions of people regarding the incidence of venereal diseases. While the figures show a decreasing incidence of these diseases, white legislators, medical practitioners and colonists generally believed that the problem was becoming worse.

<sup>648</sup>. James Stuart Archive, Vol. 1, p. 224.

The absence of sufficient check in this European Colony over young Native men, while over a period of many years the heads of kraals', Headmen and Chiefs' authority has grown so weak that former influence has almost become a matter of bygone days; while carelessness and indecency, and loss of dread of punishment or exposure, or rebuke from elders, to such an extent that they no longer shame exposure, Their very common talk is immoral, either in the presence of their elders or of Europeans, and in this they encourage each other to become worse. (<sup>649</sup>)

He believed that the whites were doing nothing to prevent the degradation of African morality. The crime of *hlobonga* appeared to have become regarded by the white man as a customary course of flirtation and as though there was nothing wrong with it. This, he believed, was a grave error: "Natives are our children, we have taken the place of their elders, and it becomes our duty to think for them and check them, exactly as it is necessary for us to think [for] and bring up our own European children. Unless the strictest regard is paid to the morals of the Natives they will grow worse in the form "social pests." Any indecent talk in the streets or elsewhere should be punishable by whipping; we would whip our own children if they did so." (<sup>650</sup>) As 'guardians' of the African, whites believed that they had a responsibility to severely punish indecency and immoral and unseemly conduct or language. There is no doubt, however, that this concern for the condition of African morality was based on an underlying fear that such 'evils' might grow amongst their own (white) children. White paternalism towards their African brethren was more often than not based on self-interest and not on any genuine love and concern for Africans as fellow colonists.

The table below illustrates the number of cases of venereal disease treated at Addington Hospital (Durban) and Grey's Hospital (Maritzburg) during the period 1890-3, the total cases treated of all diseases and the percentage of the total cases constituted by venereal disease:- (<sup>651</sup>)

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<sup>649</sup> . NBB, Vol. 2, 1893-4.

<sup>650</sup> . Ibid.

<sup>651</sup> . NBB, Vol. 1, 1890-1893. The figures above include all the various social diseases.

Cases of Venereal Disease treated at Addington and Grey's  
Hospitals (1890-3)

	<u>1890-1</u>	<u>1891-2</u>	<u>1892-3</u>
Addington	28	22	18
Grey's Admissions	32	12	6
Grey's Out-Patients	229	222	247
Total Venereal	289	256	271
Total Cases	8 191	6 790	6 290
Percentage Venereal	3.5	3.8	4.3

By 1893 the number of cases of venereal disease treated at Natal's two major hospitals, Addington in Durban and Grey's in Maritzburg, had dropped by 22% compared with 1889 (1889: 346 cases; 1892-3: 271 cases). At Addington only 18 cases were treated during the year ending June 1893 (representing a mere 3.1% of all cases), while in Maritzburg there were only six admissions to Grey's during the same period (representing 1.8% of all cases). The number of out-patients treated at Grey's remained high, but had decreased considerably since 1887 (1887: 391 cases; 1892-3: 247 cases). In terms of the important cases entered in the case book, out-patients treated for venereal disease represented only 13.7% of all cases entered, by far the lowest percentage for the period 1884-1892/3. The number of cases of venereal disease treated at the various Indian Hospitals had risen dramatically since 1889 (1889: 216 cases; 1892-3: 444 cases), due mainly to the large increase in the cases treated at the Depot Hospital in Durban (1889: 46 cases; 1892-3: 236 cases). On the positive side, however, the incidence of venereal disease among the Indian population had begun to decrease since the high of 1890-1 (1890-1: 555 cases; 1892-3: 444 cases). The following table reflects the number of cases of venereal disease treated at the various Indian Hospitals during the period 1890-3:-<sup>(652)</sup>

<sup>652</sup>. NBB, Vol. 2, 1890-1893.

Cases of Venereal Disease treated at the  
Indian Hospitals (1890-3)

	<u>1890-1</u>	<u>1891-2</u>	<u>1892-3</u>	<u>Total</u>
Umzinto	51	48	54	153
Depot	355	274	236	865
Verulam	33	47	20	100
Avoca	51	59	54	164
Isipingo	25	25	24	74
Howick	23	16	12	51
Estcourt	17	6	6	29
Stanger	-	7	38	45
	(555)	(482)	(444)	(1 481)

In a letter to the Natal Mercury Superintendent Alexander outlined the perceived social and moral condition of Natal's African population:

What are they now but savages, and ten times worse than they were in 1855? Their morality is destroyed by being constantly brought into contact with the lowest of Indians and others equally as bad. We have permitted the natives to drink, lie, and steal with impunity, whilst we cover our neglect and indifference to this state of things with the cloak of pious laws made to prevent this evil, but very rarely enforced. A witness in the box is told that if he tells a lie he will be severely punished; he lies to your face but is never punished. He steals and escapes with the plunder, knowing well how helpless are the police, and that his own chief or headman is not made answerable for his apprehension when he goes home, as he would be under native rule. <sup>(653)</sup>

In Alexander's estimation, African morality had broken down and there were hundreds of young African thieves running wild about the colony, almost free from restraint.

During the early 1890s the presence of increasing numbers of young African women in Durban caused some consternation among the town's moral custodians. In 1893 Superintendent Alexander reported that seventeen years previously, i.e. *circa* 1876, there had been only eight African women in the borough and immorality amongst them was unknown. By 1893, however, there were 360 African women (including Hottentots) in Durban, most of whom he considered to be prostitutes. He believed that many were so diseased as to make their presence in Natal "most dangerous to the community" as some were nurse 'girls'. <sup>(654)</sup> Alexander claimed that he had

<sup>653</sup>. NM, 13 Oct. 1890.

<sup>654</sup>. MM, Dbn, 1893.

reported this matter a few years previously and begged for a law "to assist them and protect others." <sup>(655)</sup> During the year 190 of these women had been found drunk on the streets. Alexander warned that the districts surrounding the borough, particularly those adjoining the Berea, were "little better than rendezvous for thieves, drunkards and prostitutes, and a source of the greatest danger to the Borough." <sup>(656)</sup> This situation, he predicted, would continue until the Government placed a white constable in charge of the district.

When interviewed on the subject of African immorality, Superintendent Alexander remarked that: "In Cetywayo's reign, an immoral native woman was unknown; now our streets are full of these women, and the blood of the finest native race in the world is being contaminated and ruined by them. Yet these very women (most of them are girls) swagger in and out of Court when charged, cheek the officers, and behave in a most intolerable manner." <sup>(657)</sup> Alexander claimed that the law had gone soft, allowing Africans to do as they liked. He remembered the good old days when every African man or woman found drunk or with liquor in their possession was sentenced to pay the fullest penalty; the supplier was also heavily penalised and as a result the courts had little to do. By the 1890s however, the situation had changed dramatically and perjury, according to Alexander, was rife:

Now every possible means is taken to make it the smallest sentence allowed with the result that the Court cannot get through the work, for the moment an offender knows that perjury is no offence in the colony, he goes in wholesale for lies, and trusts to a merciful court to give him the benefit of the doubt, although he has not the remotest idea as to how he got into the station, except that his head indicates that he must have been fearfully drunk. <sup>(658)</sup>

Alexander lamented the fact that even if a fine was levied, the defendant could always appeal to the Salvation Army and other Christian institutes to keep him out of gaol. He argued that unless evening coffee shops were opened up and the drunkard totally ignored, as one would any other criminal, drunkenness and the consequent immorality would increase daily.

A correspondent to the Natal Mercury slammed the Natal Government for failing to provide the necessary mechanisms by which the laws passed by the Legislature might be enforced. The laws of the colony appeared to deal with immorality by African women - section 289 of Law No. 19 of 1891 ("To legalise the Code of Native

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<sup>655</sup> . Ibid.  
<sup>656</sup> . Ibid.  
<sup>657</sup> . NM, 14 July 1893.  
<sup>658</sup> . Ibid.

Law laid before the Legislative Council according to the provisions of Law No. 44, 1887.") stated that

Any native woman or girl leading an immoral life, or found wandering from her kraal and unable to give a good account of herself, may be arrested and brought before the Administrator of Native Law having jurisdiction, and upon failure to satisfy the Administrator with respect to her manner of living or to give a good and valid reason for her absence from her kraal and guardian, the Administrator may confirm her arrest, and order her to return under escort to her kraal, the kraal head being bound to receive and provide for her. A defiance of any such order, or a repetition of the offence, renders the woman or girl liable to imprisonment, with or without hard labour, and with or without spare diet. <sup>(659)</sup>

The law provided for punishment by fine up to £10, and in default of payment to imprisonment with or without hard labour for any period not exceeding three months, and by whipping not exceeding 15 lashes. Females, however, could not be sentenced to be whipped for any offence whatsoever. The same correspondent claimed that in the Lower Tugela Division (the area around Stanger) the Administrator of Native Law had succeeded in virtually stamping out African immorality. This was an age-old complaint; that the laws for the control of society (the "Black Peril" and the "Asiatic Menace" in particular) were on the statute books, but that magistrates and the police either refused or were incapable of enforcing these laws.

In 1893 Alexander could report, happily, that there were no serious offences to record, "nor anything else that has disturbed that peace and harmony of the Borough which have so long existed." <sup>(660)</sup> But the perennial problem of how to deal with the growing African population remained to frustrate and torment the administrators of Natal:

Natives are becoming daily more troublesome. Most of them are no longer the childish, honest, and submissive servants of the past, but lazy, insolent, and fearless thieves, caring little for Gospel and less for gaol. They have found out our good-natured weakness and impose upon it. Their fearless nature has made some of them the most daring thieves we have to deal with. Protected as they are at night by a black skin, universal similarity of features, a strong body, a swift pair of legs, their capture or identification is made almost impossible, whilst their English education gives them the power to write their own permits for a night's leave and orders for grog. <sup>(661)</sup>

<sup>659</sup> . NM, 26 July 1893.

<sup>660</sup> . Police Report, MM, Dbn, 1893.

<sup>661</sup> . Ibid.

In Alexander's opinion, the Native Liquor Law needed to be amended since "the present number of formalities and omissions in it make it almost useless, and prosecutions a farce." This law and the Vagrant Law had to be more sternly enforced in order to check "the downward course our natives are certainly going."<sup>(662)</sup>

The District Surgeon for the City, Chas. Ward, reported that few places in South Africa had more natural advantages or could be made more attractive than Pietermaritzburg and there was no reason why it should not become a favourite residential city. But in order to attract families they needed to make the place more comfortable. He considered that the town required clean streets (better lighted), houses arranged to be warm in winter and ventilated in summer, more security in the shape of a largely increased police force, and better control over their African servants. His description of Maritzburg suggests a town in decay: "Dens of filth and iniquity, under the guise of Kafir and Coolie eating-houses, disfigure the streets from the very gates of Government House to the rookeries of the lower end of Commercial Road and Willow Bridge. It is pitiful to see such fine streets handed over to Kafirs, Coolies, Arab traders and mongrel dogs."<sup>(663)</sup> Ward felt that the registration of Africans had had "some good effect" in diminishing the number of African loafers who formerly "infested" the town.<sup>(664)</sup>

Marris has suggested that the perception of the ruling classes of the conditions under which the working classes live, gives rise to a "myth of social pathology" turning the harshness of economic inequality back upon its victims as moral condemnation.<sup>(665)</sup> Squalid housing, crime and popular drunkenness, for example, come to be seen as a "mutually reinforcing constellation of circumstances independent of the economic relationships which cause them."<sup>(666)</sup> In Durban and Pietermaritzburg, in particular, and in Natal in general, these myths, in the context of the segregationist ideology of white officials, assumed a strikingly material character. In Durban a racist settler society - compounded by the profound impact of Social Darwinism after the 1870s - focused on the "demoralisation" of African wage labour and the "attraction for self-gratification, lust and luxurious living" which the town

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<sup>662</sup>. Ibid.

<sup>663</sup>. NBB, Vol. 2, 1892-3.

<sup>664</sup>. Ibid. Natal was granted Responsible Government in 1893.

<sup>665</sup>. P. Marris, 'The Meaning of Slums and Patterns of Change', International Journal of Urban and Regional Research, Vol. 3, No. 3, 1979, p. 424. cited in P. la Hausse, *op. cit.*, p. 40.

<sup>666</sup>. Ibid.

offered. <sup>(667)</sup> Natal's white colonists condemned the apparent deficient moral character of the region's African population because they focused their attention on the results and symptoms of African urbanisation. They failed to examine the causes of this process and the westernization of the African culture, and in their cultural arrogance they neglected to perceive that the majority of black immorality had its origins in the increasing contact with the dominant English culture and the increasing detachment of Africans from their own traditional culture.

After nearly 70 years of often testing and traumatic contact with the various black races of southern Africa, the majority of white Natalians still clung jealously to the racist views and attitudes which their British forefathers had brought with them to the colony. Indeed, the passing of Law No. 19 of 1891 shows that Natal's white colonists remained unashamedly racist. The following extract from a letter written to the Natal Mercury by an "Old Colonist" clearly illustrates that little progress had been made away from the traditional Victorian thinking: "I saw in Field Street yesterday a phaeton driven by a full-grown native, smoking a big pipe, and seated beside this gentleman was a lady, with another lady and two little girls *vis-a-vis*. After such an exhibition can any one be surprised that natives so often fail in paying proper respect to white women?" <sup>(668)</sup> The letter was headed "Disgusting".

In Pietermaritzburg too the racist mentality of white residents was alive and as strong as it had ever been. An incident concerning the use of Alexandra Park clearly indicated that the town's black residents were still regarded as second-class citizens and visitors to a town which was owned by the whites. The Rev. John Bruce had applied for the use of a cricket ground in the Park for boys attending the school attached to the Free Church of Scotland Native Mission, the ground to be used between one and two p.m. daily from Monday to Friday inclusive. But after some discussion in the Pietermaritzburg Town Council, permission was refused with only three Councillors out of 13 voting in favour. Mr. Strapp considered that

it would be a disgrace to allow natives and other coloured people to take part in sports in their beautiful Park. The Park should be kept for Europeans. They should deal honestly and justly by [sic] the kafirs, but keep them at arm's length, and if they had done this in times gone by they would have heard less of these social pest cases. The time had not yet arrived when they should receive the native with open arms and allow him to take part in their

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<sup>667</sup>. S.N.A., Vol. 1/1/367, 1116/1907, Magistrate, Umlazi Division to S.N.A., January 1907. cited in P. la Hausse, *op. cit.*, p. 40.

<sup>668</sup>. NM, 7 April 1887.

sports as they would be doing if they granted this application. <sup>(669)</sup>

Councillor Bale said that no one was more anxious to see Africans elevated in society than himself, but he did not think that the Park was the proper place to have Africans playing cricket or any other game. He argued that there were plenty of other places in the town where they could play. He thought it would be "lowering themselves very much to allow a lot of natives to play cricket in their Park. The Park, it had been rightly said, was for the use of the Europeans, and it would be undoubtedly a great nuisance to have natives playing there." <sup>(670)</sup> The Natal Witness applauded the decision of the Town Council, expressing sentiments which the majority of the Colony's white population would have subscribed to: "The community of Maritzburg has apparently cause for self-congratulation over a lucky escape from a further domination of colour. The native, the Indian, and the coloured races generally, are obtrusive enough as residents in our midst; and at a time when their segregation is desiderated by all lovers of sanitary and social order, it would have been a very false move on the part of the municipality to extend to them further residential privileges. There is no reason why missionary effort should be allowed to induce martyrdom for the white population either of the City or Colony." <sup>(671)</sup>

Missionaries and Christianity were blamed for teaching a peculiar form of enlightenment, that the division between the white and black races would have to remain in place. James Stuart observed the dangers of this brand of 'enlightenment':

Europeans receive a [African] child, say a girl, who leaves her home, 'protect' her against her father, practically adopt her, treat her as one of their children up to a certain age, and then, fearing to allow the child to associate too much with them, cause a break by giving it its meals in the kitchen, thereby letting it understand there is an impassable barrier between the two. What kind of enlightenment is that which allows its clergy to shake hands with their native parishioners at the mission station, and when they meet them in the street in towns will pass them by practically as strangers? <sup>(672)</sup>

Christianity, which should transcend and demolish all racial and other barriers, was to an extent being used to perpetuate those barriers. The enlightenment which a knowledge of God and the Anglo-Saxon culture was supposed to be bringing to

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<sup>669</sup> . NW, 8 March 1893.

<sup>670</sup> . Ibid.

<sup>671</sup> . NW, 9 March 1893.

<sup>672</sup> . James Stuart Archive, Vol. 1, p. 233.

Natal's indigenous African population, appeared to be causing more darkness than light.

The racism of Natal's white settler community was more often than not blatant and overt. All unnecessary contact between the races was seen as breaking down the respect which the African had for his white master. Indeed, even parents who allowed their children to watch African children playing marbles in the streets were censured for their indiscretion.<sup>(673)</sup> White women who socialised with African men were severely criticised for their indiscretions and risked exclusion from the hallowed corridors of white society. The Natal Witness related a scene in which a white woman, described as "A Shameless Creature", was being escorted down Church Street by an African male companion: "But the spectacle of a white woman - presumably a new arrival - leaning affectionately on the arm of a swaggering *Makolwa* native, is most degrading, and, for the sake of our rising generation, should be severely discountenanced. We trust the silly and misguided creature will have better sense than to parade her low tastes in public again."<sup>(674)</sup> A white servant-girl, described by the Natal Witness as "A Disgrace to Her Sex", was lambasted for engaging in sexual relations with an African man in the privacy of her own room: "People need hardly wonder why natives are so familiar with white women when such utter depravity as this exists in our midst. No doubt the native took pains to let his companions know all about the affair, and a pretty estimate they must have formed of the white woman's character. The girl is of prepossessing appearance and is about 17 years of age. She is apparently a new arrival, which fact, no doubt, accounts for her taste."<sup>(675)</sup> By the end of the colonial period the barriers which the white colonists had erected between themselves and Natal's black population remained firmly entrenched. Those who dared to transgress these divisions did so at their peril.

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<sup>673</sup>. NW, 17 Nov. 1891.

<sup>674</sup>. NW, 20 April 1893.

<sup>675</sup>. NW, 2 April 1890. The man was charged with trespassing, pleaded guilty and was sentenced to a fine of £5, or in default three months' hard labour.

## CHAPTER SIX

### CONCLUSION

Most of the white population of colonial Natal believed that the local African people were extremely fortunate to be living under white rule. They argued that not only were they offering Africans protection from the powerful Zulu state, but they were also introducing them to all the undoubted benefits and wonders of the European culture. Many whites considered that they were conferring the three gifts of civilization, Christianity and commerce on their African brethren. In short, they were making 'cultured' adults out of 'savage children'. In practical terms, however, it is revealing to examine the actual benefits which accrued to the African population. In accordance with the Charter of 1856, a sum of £5 000 was placed under the Lieutenant-Governor's control, to be utilized annually for "native purposes". This amount, known as the "Native Reserve Fund", was intended "to be exclusively used for their religious, moral and industrial training, by which a way might be opened to them through which they might obtain a higher social position and emulate themselves in the arts of civilizing life." <sup>(1)</sup>

In 1875 the Colonial Auditor requested the Secretary for Native Affairs to provide a statement of expenditure for any one of the years since 1856, together with a balance sheet. The Secretary for Native Affairs could not comply with this request since his department did not keep a detailed audited account; receipts and payments merely appeared under the general heading of "Native Purposes". <sup>(2)</sup> A detailed statement was, however, made available for the year 1877:- <sup>(3)</sup>

#### Expenditure of Native Reserve Fund (1877)

Grants to Native Schools	£1 918	0s.	0d.
Government Sugar Mill	842	16	8
Government Special Surveyor	436	0	0
Tugela Valley Road	753	14	5
Office Keeper	100	0	0
Clerk - Natal Native Trust	50	0	0
Cattle and Kraal Keepers	80	10	0

- <sup>1</sup>. S.N.A. Vol. 1/1/25. American Board of Missionaries to S.N.A., 8 June 1875. cited in N. Ramdhani, op. cit., p. 115.
- <sup>2</sup>. S.N.A. Vol. 1/1/26. Auditor to S.N.A., 17 June 1875. cited in N. Ramdhani, op. cit., p. 116.
- <sup>3</sup>. S.N.A. Vol. 1/1/32. Statement of Expenditure related to Native Reserve Fund, 18 July 1875. cited in N. Ramdhani, op. cit., p. 116.

Mule Wagon Repairs	44	0	0
Supreme Chief's Native Guard	55	3	8
Transaction of Law 28, 1865	10	10	8
Bank Pass Book	3	3	0
	(£4 290	17s	9d.)

At the end of each year the balance of the Reserve Fund was allowed to lapse instead of accumulating. In 1883 the government spent £2 312 out of the £5 000 on grants to mission schools, the amount being divided amongst 52 schools which had a combined daily attendance of 2 052 pupils. In 1883 the Acting Secretary for Native Affairs admitted in the Legislative Council that only one per cent of the African population was being educated and that their education was being carried out by missionaries only. By 1887 the government had not established a single school for Africans. <sup>(4)</sup> In its report of 1881-1882, the Natal Native Commission stated that there was little enthusiasm for education on the part of the Africans. However, by 1885 the Inspector of African Education, appointed by the government in that year, observed that there was a growing desire among Africans to be educated. <sup>(5)</sup>

It is clear that up to 1884 at least, a negligible amount was expended for the direct benefit of the African population. In 1883 Africans paid the following amounts in taxation:

£10 000	in Dog Licenses.
£67 000	in Hut Taxes.
£30 000	in Customs Duties.

These contributions excluded the fines and fees of court. <sup>(6)</sup> The above figures reveal that Africans paid more than half of the colony's taxes, whereas they owned only one-sixth of the land. They numbered approximately 400 000 people, while the white population, which owned 20 times more land than the Africans, numbered only 37 000.

African consumption of imported goods gradually increased over the years, thereby increasing their contribution by way of indirect taxation. In a memorandum to the Colonial Secretary of Mauritius, the Acting Secretary for Native Affairs informed him that Africans used ploughs to a great extent and that European dress was becoming more and more fashionable. These items, together with blankets and picks, were especially heavily taxed. In 1884 the Legislative Council admitted that "every pound's worth of clothing they [the Africans] purchased, every plough that they

<sup>4</sup>. D. Welsh, *op. cit.*, p. 268.

<sup>5</sup>. *Ibid.*

<sup>6</sup>. *LC*, 3 July 1884.

purchased and every spade that they purchased - in actuality every step in their progress towards civilization - was being taxed." (7)

Although Africans contributed greatly to the revenue of the colonial regime (almost one-third of the state's revenue in the earlier decades of colonial rule and about one-sixth from the 1880s onward), a significant portion of the revenue was utilized for purposes other than direct material and social benefits for Natal's African inhabitants. Only £5 000 was reserved for "Native Purposes" in accordance with the Charter of 1856, while in 1892 the sum set aside for the "education and welfare of natives" increased to £10 000. (8) Civil and public services for the black section of the population were minimal in comparison to those established for the white minority. Not only was an inequitable amount spent on promoting the interests and welfare of Africans in Natal, but the colony's education policy reveals that Africans were being deliberately prepared by their white masters for a particular position in society which would be fundamentally inferior and subservient to that of the white man. Most African schools adopted a curriculum which emphasised industrial training. For boys, this implied activities such as woodwork, metal work and gardening, while for girls, it meant domestic duties. Reporting, with approval, on the industrial training provided for girls at the St. Francis Xavier Roman Catholic Mission School, the Inspector of Native Schools observed that: "The girls are instructed in needlework, washing, ironing, and other household duties by one of the sisters; as was explained, the aim being to render them good and useful domestic servants, and it appeared to me that the means taken were likely to secure the end in view." (9) Instead of educating Africans, the few schools trained women to use their talents as domestic servants, while men were instructed with a view to becoming labourers on white farms, or semi-skilled labourers in the towns. As part of the capitalist periphery, "the main economic task of the colonial state was to create a labour force in those sectors in which finance capital could be most profitably invested." (10) In 1883 the Government of Natal only invested approximately £1 3s. 2d. in the education of each African child. In accordance with the aims of the Shepstone system, it was considered to be of paramount importance to keep the Africans "in order" rather than to elevate their lifestyle or to allow them to assume a greater say in the political and economic spheres of the colonial system. (11)

7. LC, Colonial Secretary to Council, 3 July 1884.

8. E.H. Brookes and C de B. Webb, op. cit., p. 167.

9. NBB, Vol. 2, 1893, Report of Inspector of Native Education.

10. NBB, Vol. 2, 1887, Report of Inspector of Native Education.

11. E.H. Brookes and C de B. Webb, op. cit., p. 167.

The reality of contact between the culture of the white settlers and the Zulu culture of the indigenous African people may have been favourable for white interests, but exerted a fundamentally negative and destructive influence on the pre-colonial culture of the local African people. In their cultural arrogance, Natal's white colonists were determined to impart all the lofty 'benefits' of their European system onto the region's indigenous African population. In essence, these were purported to be civilization, Christianity and commercialization. In practice, however, Natal's African population appeared to inherit more of the vices of the white, Victorian culture than the alleged benefits. Crimes and social problems such as theft, drunkenness and prostitution were introduced into the area by the white man who imported these phenomena into Natal from a Victorian Britain which was experiencing all the socio-economic consequences of industrialization.

The crime of theft in pre-colonial Zulu society had been a rare phenomenon. The convicted thief suffered the death penalty on occasions, especially if he was caught in the act of stealing, but in most cases received an immoderate castigation with sticks. Stocktheft was also severely punished and was rarely committed after Shaka introduced the death penalty during the 1820s. This situation changed dramatically, however, as Natal's African population came into increasing contact with the culture and mores of the white colonists. The strategy of the white authorities to deliberately draw the indigenous African population into the white dominated money economy and to create new material wants backfired to an increasing extent as society moved through the colonial period. Africans, in particular those who moved permanently to the 'white' towns, succumbed to the inherent materialism of the Europeans and began to perpetrate property crimes on an ever increasing scale. Urbanised Africans, who had left their rural homes to investigate the exciting lures of the 'white' towns, revelled in their new-found freedom. Released from the restraints and castigations of their chiefs, parents and elders, these young men and women were free to engage in all the vices and debauchery of the European culture. Given the material nature of the white man's culture and the fact that most urbanised Africans were poor and relatively deprived, the opportunities for theft were numerous and often irresistible. Africans who had abandoned their traditional homes and the moral restraints that went with them, found that the white man had failed to devise any appropriate structures to replace those left behind.

The tables below illustrate the impact of white civilization on Natal's African population with regard to the commitment of thefts in the Borough of Durban. They reveal that the number of thefts committed by Africans increased significantly during

the period under review, but the proportion of Durban's African population convicted for theft remained relatively constant:- <sup>(12)</sup>

Convictions for Theft in the Borough of Durban (1864-1893)

	<u>Whites</u>	<u>Indians</u>	<u>Africans</u>	<u>Total</u>
1864	25	27	57	109
1870	17	35	76	128
1875	34	43	146	223
1880	51	73	116	240
1885	30	81	168	279
1890	39	97	194	330
1893	28	190	276	494

Relationship between Population and Theft in the  
Borough of Durban (1864-1893)

	<u>Population</u>	<u>Convictions</u>	<u>Percentage Convicted</u>
1864	Whites : 3 023	25	0.8
	Africans: 1 384	57	4.1
	Indians : 231	27	11.7
1870	Whites : 3 147	17	0.5
	Africans: 1 766	76	4.3
	Indians : 668	35	5.2
1875	Whites : 4 564	34	0.7
	Africans: 2 286	146	6.4
	Indians : 698	43	6.2
1880	Whites : 6 736	51	0.8
	Africans: 3 817	116	3.0
	Indians : 3 309	73	2.2
1885	Whites : 8 895	30	0.3
	Africans: 4 521	168	3.7
	Indians : 3 711	81	2.2
1890	Whites : 11 530	39	0.3
	Africans: 6 402	194	3.0
	Indians : 5 792	97	1.7
1893	Whites : 12 772	28	0.2
	Africans: 6 318	276	4.4
	Indians : 5 917	190	3.2

Although the thieving propensities of Durban's African population (taking into account the increasing size of that population) did not increase during the colonial period, the town's white residents found ammunition in the increasing number of

<sup>12</sup>. MM, Dbn, 1864-1893.

convictions of Africans for committing the crime of theft. The belief arose that town Africans were dishonest and that the white man's property was under constant threat. The criminal statistics, however, suggest that, while a greater proportion of the African population was convicted of theft in the Borough of Durban than the white and Indian populations, the threat posed by African thieves was, in fact, minimal, with only 4% of Africans in Durban being convicted during 1893. White fears of black thieves, therefore, need to be explained in terms of the racist notions of the settlers themselves. Confronted by an almost overwhelmingly large African population, whom they viewed as culturally and intellectually inferior, it was only natural that the white colonists, in view of the material nature of their culture, should perceive a threat to their property.

In pre-colonial Zulu society beer (*utshwala*) and beer-drinking formed an important part of life, having religious, social and economic significance which was in no way comparable with the consumption of liquor by Europeans. The drinking of beer within the tribe was strictly controlled. Young people of both sexes were not permitted to indulge in beer-drinking nor to take part in beer-drinks until well beyond 20 years of age. This rule applied equally to all women; although they were allowed to drink beer within the privacy of their own homes, they were never allowed to visit strange homesteads for the purpose of drinking. Despite the important role played by beer in traditional Zululand, drunkenness was relatively rare and drunkards almost unknown. This scenario changed dramatically, however, when the local African population came into contact with the European civilization of the white colonists. The white man brought with him to the colony all the vices of Victorian Britain, one of them being the social problem of drinking strong liquor to excess. Natal's African population embraced European liquor to such an extent that drunkenness became part of the stereotype used by whites to describe the African. Africans, especially women, girls and young men, who moved to the towns found that their access to European spirits was restricted by legislation, but that white canteen-keepers and Indian middle-men were more than happy to supply all their needs. Revelling in their new-found freedom and determined to establish their independence, these people imbibed lustily of distilled spirits, Natal rum in particular. Whereas the traditional brew, *utshwala*, had been relatively mild, the new drinks of the white man were highly intoxicating and usually resulted in drunkenness if taken in excess. Other factors such as loneliness and the cultural shock of moving to a 'white' town, low self-esteem caused by their lowly position in society and the menial jobs assigned to Africans, and a lack of recreational facilities gave rise to a great deal of social drinking, thus making drunkenness a common phenomenon for the town African. In the vicinity of the sugar plantations a new African drink, *isishimiyana*, arose which was highly intoxicating and reportedly "maddening" in its

effects. Even in the countryside Zulu beer was often adulterated with European spirits as town Africans carried their new experiences home with them.

In the interests of historical balance, it is important to emphasise that not all Africans were driven into the towns by economic necessity and deprivation, but that many succumbed to the ravages of European civilization quite happily. Up until the mid-1880s there was little economic pressure on Natal's African population to become urbanised and abandon their traditional way of life. The majority of Africans were content and able to continue with their agricultural activities, which included both subsistence and peasant farming. They paid their hut taxes through the sale of cattle and agricultural surpluses, and generally managed to resist the demands of white employers and the attractions of city life. During this period the majority of Africans who became urbanised were voluntary migrants to the white towns, attracted by the prospects of a new and better life, and the opportunity to exercise their independence (African women in particular) free from the restraints of chiefs, parents and peers. Sadly, these people were willing participants in the destruction of the Zulu culture.

From the mid-1880s onwards, however, the pressures on rural Africans to leave their traditional lifestyles and move to the towns increased significantly. Population pressure in the reserves resulted in agricultural hardship and crop failures. Many of these subsistence farmers were forced to abandon the land and moved to the towns in search of new opportunities. Peasant farmers also found that their access to various categories of land began to be restricted. The ever-increasing demands of the Hut Tax forced Africans to seek new forms of income. The environmental calamities of the 1890s further undermined the independence of the African farming sector. From the mid-1880s, therefore, the majority of Africans who became urbanised did so more out of necessity than any morbid curiosity for the white culture or any petulant desire to escape the bonds of traditional authority structures. Thus during this period the blame for the destruction of Zulu culture and morality lay at the door of the dominant white culture, which was deliberately entrenching its dominance by undermining the mores and usages of the traditional Zulu.

The tables below illustrate how Africans in the Borough of Durban succumbed to the ravages of drink to an increasing extent throughout the period under review. Not only did the number of Africans convicted of drunkenness increase significantly, but the proportion of Durban's African population convicted also increased dramatically. Drunkenness became almost an everyday phenomenon for many town Africans: - <sup>(13)</sup>

<sup>13</sup>. MM, Dbn, 1864-1894.

Convictions for Drunkenness in the Borough of Durban (1864-1894)

	<u>Whites</u>	<u>Indians</u>	<u>Africans</u>	<u>Total</u>
1864	176	77	22	275
1870	81	52	42	175
1875	136	122	85	343
1880	1 767	376		2 143
1885	1 371	923		2 294
1890	1 020	799	746	2 565
1894	546	1 375	881	2 802

Relationship between Population and Drunkenness  
in the Borough of Durban (1864-1894)

	<u>Population</u>	<u>Convictions</u>	<u>Percentage Convicted</u>
1864	Africans: 1 384	22	1.6
	Whites : 3 023	176	5.8
	Indians : 231	77	33.3
1870	Africans: 1 766	42	2.4
	Whites : 3 147	81	2.6
	Indians : 668	52	7.8
1875	Africans: 2 286	85	3.7
	Whites : 4 564	136	3.0
	Indians : 698	122	17.5
1880	Africans: 3 817	376	9.9
	Whites/ Indians : 10 045	1 767	17.6
1885	Africans: 4 521	923	20.4
	Whites/ Indians : 12 606	1 371	10.9
1890	Africans: 6 402	746	11.7
	Whites : 11 530	1 020	8.8
	Indians : 5 792	799	13.8
1894	Africans: 6 862	881	12.8
	Whites : 13 093	546	4.2
	Indians : 5 898	1 375	23.3

As argued in chapter five, pre-colonial Zulu society did not tolerate immorality and imposed various rules in order to control the sexual behaviour of its members. Sexual crimes were not only viewed in a very serious light, but were also regarded as ill-omened actions. Crimes such as rape, incest, seduction, adultery and abortion were severely punished by fines of cattle, banishment and even death. Premarital sexual intercourse was strictly forbidden, it being regarded as a serious crime for a young man to penetrate when having sexual intercourse with a girl before marriage.

*Ukuhlobonga* (external sexual intercourse), however, was permissible provided that it followed a certain procedure. Sexual promiscuity was a vice that Natal's African population learnt from their white masters who brought one of industrial Britain's most pressing social problems with them when they came to Natal. Prostitution (and the accompanying venereal diseases) was a concept that was foreign to Zulu society. Not only was the word prostitute (*unondindwa*) unknown in Zululand, but there was no place where such a woman could conduct her business. A James Stuart informant confirmed that there were very few *izi robo* in traditional society. An *isi robo* was a girl who allowed herself to be deflowered while engaged in the act of *ukuhlobonga*. Such girls knew that they would lose value when the amount of *lobola* was fixed on marriage and that they would be treated with the greatest contempt, people expressing their disgust by spitting at them. Mkando testified that such a woman was "like a prostitute, though of course she did not sell herself for money or hire, such a proceeding being foreign to native ideas." (14)

But contact with the "Victorian immorality" of Natal's white settlers soon began to erode the pre-colonial value system of the indigenous African population. The belief arose among the colony's white residents that most Africans were of low morals and frequently engaged in licentious behaviour and sexual debauchery. Such immorality was considered to be an inherent quality of the African, whereas in reality it was nothing more than learned behaviour from his white master. Many young women found the attractions of town life to be irresistible. Whereas in traditional society the rights of women and girls were severely limited, in the urban environment of the 'white' towns they were free to engage in sexual liaisons without fear of parental intervention. This was only one of many freedoms which lured African women to the towns. Once in the towns they became attracted to European clothes and other material possessions: prostitution was more often than not the easiest and quickest method of deriving sufficient income to acquire the material attractions of the white culture. From the mid-1880s onwards there were also solid economic reasons, such as pressure on the land and failing crops, forcing many African women into the towns where they soon discovered that prostitution was a lucrative occupation. By 1893 Superintendent Alexander believed that most of Durban's 360 African women residents were prostitutes, a far cry from the situation only seventeen years previously when there had only been eight African women in the borough and immorality amongst them was unknown.

Although no figures are available indicating the number of African prostitutes in the Borough of Durban, it is fair to say that a number of African women in towns like Durban engaged in prostitution as a ready means of sustaining themselves. African

<sup>14</sup>. James Stuart Archive, Vol. 3, pp. 147-8.

men and women also engaged in the vice of prostitution as the owners and managers of so-called "disorderly houses". From 1890 onwards the Mayor's Minute for Durban lists the number of convictions for keeping a disorderly house. While it is likely that the Borough's Police was more determined to extinguish black immorality, thereby giving rise to more black convictions for this crime, the criminal statistics suggest that more brothel-keepers may have come from the African population than the white and Indian populations:- <sup>(15)</sup>

Convictions for Keeping Disorderly Houses  
in the Borough of Durban (1890-4)

	<u>Whites</u>	<u>Indians</u>	<u>Africans</u>	<u>Total</u>
1890	1	8	22	31
1891	0	11	11	22
1892	3	2	5	10
1893	0	6	6	12
1894	0	2	7	9
	(4)	(29)	(51)	(84)

Like prostitution, venereal diseases were unknown in pre-colonial Zulu society, but contact with the vices of European civilization soon introduced diseases such as syphilis and gonorrhoea amongst the region's African population. The reports of Resident Magistrates and District Surgeons from throughout the colony told a similar story for much of the colonial period: venereal diseases among African men and women were widely prevalent and on the increase. The table below reveals that during the period 1882-1892, members of the African population were the prime contributors to the high incidence of venereal diseases treated in the External Department of Grey's Hospital in Pietermaritzburg :- <sup>(16)</sup>

Patients treated for Venereal Diseases at Grey's Hospital  
(External Department) - 1882-1892

	<u>1882</u>	<u>1887</u>	<u>1891-2</u>	<u>Total (1882-92)</u>
African male	51	150	81	899
African female	27	76	43	410
White male	19	46	17	278
White female	0	10	7	69
Indian male	3	54	42	270
Indian female	3	19	4	74
Others male	3	23	10	146
Others female	1	9	2	73

<sup>15</sup>. MM, Dbn, 1890-1894.

<sup>16</sup>. NBB, Vol. 1, 1882-1892. Unfortunately no figures are available for the preceding period.

Thus contact with settler society exercised an extremely deleterious influence on the morality of Natal's African population. From the days before the white man came, when prostitution and social diseases were unknown, the moral position of the African had deteriorated rapidly to the point where he was succumbing to all the sexual vices of his white master. During the period 1882-1892 African patients constituted 58% of the cases of venereal disease treated in the External Department of Grey's Hospital. During the same period approximately one out of every 29 Africans in Maritzburg was treated for venereal disease, while one out of every 42 Indians and only one out of every 221 whites was treated. The moral decay of the African culture had become firmly entrenched.

Parents and chiefs complained bitterly about the newly-found independence of their children. Not only did urbanised Africans break most of their pre-colonial customs and usages, but when they returned home to visit relatives they took their new ideas with them and spread insubordination through the rural areas. Fathers complained that their daughters became prostitutes in the 'white' towns, thus depriving them of valuable income through the system of *lobola*. They complained further about the disobedience of their sons who ran off to the towns to engage in penetrative intercourse. African parents laid the blame for this process firmly at the door of white civilization: they blamed the white man for taking their children away from them and teaching them new habits and attitudes. African women also began to assert their independence from their husbands, contributing further to the break-down of their traditional culture. Many Africans saw the mission stations (and therefore Christianity) as undermining Zulu social values and the traditional structures of authority. Parents argued that when their children became converts, they lost control over them. They complained that these stations were hot-beds of immorality and the haunts of all sorts of disreputable characters. Thus contact with the dominant culture of the towns, the white European culture, assisted in the destruction of the indigenous Zulu culture.

Durban's Indian population was perceived by the white colonists as both an economic and a sanitary threat. Superintendent Alexander reported in 1893 that "our Indians are becoming a very serious element amongst us. They are about as prolific as rabbits, and almost as destructive to the welfare of Europeans." <sup>(17)</sup> He tabulated their progress in Durban over the previous 23 years as follows:-

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<sup>17</sup>. MM, Dbn, 1893.

	<u>Population</u>	<u>Property</u> (lots)	<u>Value</u> (£)	<u>Stores</u>	<u>Criminal</u> <u>Charges</u>	<u>Contravention</u> <u>Bye-Laws</u>
1870	665	2	500	2	115	109
1875	698	9	3 000	11	222	465
1880	3 309	50	15 000	37	257	1 979
1884	3 711	118	28 000	64	244	1 446
1889	4 853	131	31 000	85	269	1 515
1893	5 917	229	70 000	128	1 074	2 586

Alexander reported that Indian property was distributed equally all over the town. They had plenty of money and as their expenses were so small, they were able to undersell the white trader by 30 per cent. There were seven Indian schools in Durban teaching about 500 Indian boys an English education. These boys were "naturally sharp" and could afford to live upon 5s. per month, thus pushing aside the white boys "whose boot leather would cost more." Indian clerks and office boys were to be found all over Durban. Alexander complained that more Indians had been convicted of drunkenness in the Borough of Durban (including 180 women) and more Indians arrested by order of the court and others outside the police during 1893 than any other race of people in Durban. Although the police allowed Indians "the same privilege to be out at night as Europeans", Indian merchants had the 'audacity' to complain of the unjust and cruel treatment of the police and others towards them. He admitted that their presence as labourers was a "blessing", but argued that "as neighbours their filthy habits have made them a curse; and I sincerely wish they would seek some other country where the police would treat them better and give them no cause to complain." <sup>(18)</sup> The majority of the colony's white population would have agreed with Alexander's sentiments.

The European culture of Natal's white colonists also had a destructive influence on the non-western culture of the colony's Indian population, but the experience was not as damaging as it was with the Zulu culture. Criminal activity such as theft, and social problems such as prostitution among the Indian population were not unique to the colony, but were habits developed in India and subsequently exported to Natal with the indentured labourers and other Indian immigrants. The phenomenon of widespread Indian drunkenness, however, was a direct result of the Indians' peculiar position in Natal society and their contact with a European culture with a long acquaintance with drunkenness and alcoholism. The Indian nation was by tradition a sober people. According to the Natal Emigration Agent at Calcutta, the population of India was mainly composed of Hindus and Moslems who, while on their native soil, seldom indulged in intoxicating liquors. Amongst the Hindus, however, there were men who drank alcohol: these were the lower classes of labourers and the

<sup>18</sup>. Ibid.

common Madrassees who indulged in liquor on occasions of festivity, but were seldom habituated to its use. The higher orders of Hindus and the Moslems were strictly forbidden by their religions even to touch intoxicating liquors except in the form of medicine. Clearly, therefore, many Indians who came to Natal developed drinking habits which were foreign to their traditional culture. The rules of caste were frequently broken as Indians of different religions were forced to live together on the sugar plantations. Even before they arrived in Natal, they were forced to take their meals together while on the sea journey to the colony. The figures for Indian drunkenness in the Borough of Durban reveal the increasing extent to which the Indian population succumbed to the attractions of European liquors. In 1864 77 Indians were convicted for drunkenness, constituting 28% of all convictions for drunkenness, but by 1894 the number of Indians convicted had risen to 1 375 or 49% of the total convictions for drunkenness in the borough. Approximately 23% of Durban's Indian population was convicted for drunkenness during the course of 1894 and by this time the Indian population had become by far the worst offenders in the area of drunkenness. Thus contact with the dominant white culture contributed significantly to the crisis in Indian society in colonial Natal.

Natal's African population was perceived by the bulk of white colonists as being barbaric, savage and dangerous. In common parlance Africans were feckless, child-like, pleasure-seeking, lazy, cunning and sensual. <sup>(19)</sup> These stereotypes, in the colonist view, justified white domination. The Natal African could not win: traditionalists were condemned for their 'barbarism', while the *amakholwa*, who had accepted western values, were rejected for claiming equal status with the whites. The white settlers had arrived on the shores of Natal armed with racist attitudes and perceptions which had been forged over hundreds of years and their experiences with the indigenous African population served merely to harden existing attitudes. White fears of African aggression, promiscuity and criminality were exacerbated by the vast size of the colony's African population. And throughout the colonial period the gap between the size of the white and black populations was growing: - <sup>(20)</sup>

<sup>19</sup>. D. Welsh, *op. cit.*, p. 322.

<sup>20</sup>. *NBB*, Vol. 1, 1865-1893.

Population of the Colony of Natal (1865-1893)

	<u>Whites</u>	<u>Indians</u>	<u>Africans</u>	<u>Total</u>
1865	16 623	4 262	137 736	158 621
1870	17 737	4 858	258 187	280 782
1875	16 261	8 228	126 759	171 206
1880	25 271	15 568	358 660	399 499
1885	36 701	29 357	377 581	443 639
1890	46 788	30 393	455 983	543 913
1893	43 742	41 208	476 992	561 942

Towards the end of the period under review, black drunkenness and theft was often an increasing reality and was not merely a figment of the colonists' racist imagination. But it is important to emphasise that increasing levels of African criminality were caused primarily by increasing contact with white society and the resultant break-down of the African culture, and were not due to any inherent criminal instincts on the part of the African. Similarly, the increasing levels of African prostitution and venereal diseases during the period under review were the result of contact with the dominant white culture and were certainly not a feature of pre-colonial Zulu society. The rape scares and "kafir outrages" which struck the colony at infrequent intervals were essentially mythical in nature, caused by a sharpening of white fears about the nature of African sexuality during periods of economic depression and increasing African criminality.

Given the perceptions which the white colonists held about African and Indian people, the control of the 'dangerous' and mushrooming African population (and to a lesser extent the Indian population) became an all-consuming passion for the ruling white population. Whites regarded the colony as their own and were determined to safeguard the region, especially the towns of Durban and Maritzburg, against the perceived threats of Africans and Indians. The control of the indigenous African and immigrant Indian populations therefore became of fundamental importance for the white settlers. The white governmental and municipal authorities devised a range of mechanisms in order to achieve this control. In essence, it was a three-prong attack, using legislation, the police and the judiciary. They attempted to impose the Westminster system on the indigenous population. Both the police and the judiciary were determined to impress upon black people, Africans in particular, that certain types of behaviour would not be tolerated in a 'civilised' society. As a result, the police often perceived black criminals as posing a greater threat to society than white criminals and tended to focus their attention on instances of African and Indian criminality as these people appeared to threaten the very fabric of white civic life and the future of white peace and security in Natal. White magistrates were similarly concerned with imposing sentences which would have a deterrent effect: in the case of African criminals, they saw themselves as both protecting white society from the

ravages of black, criminal aggression, and impressing upon the "native" mind that if he wanted to live with the white man, he would have to learn to behave in a manner acceptable to his white master.

Controlling legislation, the favourite resort of white legislators, was often passed under the guise of moral reform, but there can be little doubt that most of the legislation discussed in this study was designed not with the moral condition of Africans and Indians at heart, but the security of white civic life and white political and economic dominance. A combination of emotions, such as fear and envy, prompted whites to pass a plethora of laws during the colonial period, with the intention of reducing the levels of black criminality. This approach was a hang-over from Victorian England where it was believed that 'you deal with criminals through the law.' The restrictive liquor laws were intended to control African and Indian drinking habits in order to maintain their productivity as labourers. And since most crime was thought to be perpetrated under the influence of alcohol, liquor legislation was also an attack against black criminality generally. Numerous other laws were primarily intended to effect control over the Indian and African populations: these included registration and curfew laws, and the proposed Contagious Diseases Laws. To a large extent, however, the attempt to control Natal's African and Indian population through legislation failed dismally and much of the crime and social problems which new laws were intended to eradicate remained, and in many cases had increased, by the early 1890s. The colonial authorities never attacked the root cause of crime.

Richard Harris has defined the nature of a decent society: "The decency of a society can be measured by its criminal laws. In a crude society, the purpose of those laws is to secure order. In a civilised society, the purpose is to secure order and freedom. And in a good society, the purpose is to secure order and freedom fairly." <sup>(21)</sup> In terms of this definition, the society of colonial Natal can only be described as crude. Between 1860 and 1893 the white Government passed numerous laws which were specifically designed to secure and entrench the authority of the white man over the other ethnic groups and to ensure their control over the region's African and Indian populations. Order would ensure the peace and security of colonial life for the white settlers. Natal society cannot even be described as civilised since the vast majority of its members was deprived of basic freedoms rightfully due to all mankind. And it was certainly not a good society because prejudice and racial discrimination forced the African and Indian populations to assume the role of second-class citizens, visible by day, but invisible by night. In their efforts to secure and maintain the

<sup>21</sup>. Richard Harris quoted. cited in Sunday Tribune, 29 Nov. 1987.

sanctity of white society, Natal's white authorities deprived the colony of the talent and energy of 90% of the population. As Brookes and Webb noted in 1965, "The history of Natal as a whole is in a large measure the record of how much progress [the] European minority has made in [the fields of economic and cultural development] and how small, relatively speaking, has been its advance in the task of solving the difficult problems of race relations - in other words of learning to work out with the different non-white groups the solution to the problem of how to live together in justice and mutual respect." <sup>(22)</sup> Their observation is particularly valid for the colonial period.

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<sup>22</sup>. E.H. Brookes and C de B. Webb, op. cit., p. 167.

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APPENDICESVenereal Diseases treated at Addington and Grey's Hospitals  
(1869 - 1893)

1869	36		
1870	52	1880	119
1871	45	1881	118
1872	55	1882	241
1873	59	1883	285
1874	50	1884	226
1875	76	1885	357
1876	68	1886	454
1877	79	1887	483
1878	133	1888	414
1879	149	1889	346
Total Decade	766	Total Decade	3 043
1890-1	289		
1891-2	256		
1892-3	271		

NOTE: 1869-1881 includes cases treated at Addington and admissions to Grey's. From 1882, out-patients at Grey's are also included. These make up the bulk of the cases. NBB, Vol. 1 & 2, 1869 - 1892-3.

Venereal Diseases treated at Addington Hospital, (1869-1893)

	<u>Total Venereal Diseases</u>	<u>Total No. of cases treated</u>	<u>% Venereal Diseases</u>
1869	21	221	9.5
1870	15	194	7.7
1871	12	189	6.3
1872	40	275	14.5
1873	42	402	10.4
1874	27	388	7.0
1875	50	464	10.8
1876	42	392	10.7
1877	52	520	10.0
1878	54	586	9.2
1879	50	642	7.8
Total Decade	384	4 052	9.5
1880	34	548	6.2
1881	54	611	8.8
1882	40	551	7.3
1883	36	586	6.1
1884	51	629	8.1
1885	27	585	4.6
1886	27	464	5.8
1887	23	483	4.8
1888	31	683	4.5
1889	36	765	4.7
Total Decade	359	5 905	6.1
1890-1	28	1 158	2.4
1891-2	22	745	3.0
1892-3	18	573	3.1
TOTAL	832	12 654	6.6

Source: NBB, Vol. 1 & 2, 1869 - 1892-3.

Venereal Diseases treated at Grey's Hospital, (1869-1893)

	<u>Total Venereal Diseases</u>	<u>Total No. of cases treated</u>	<u>% Venereal Diseases</u>
1869	15	182	8.2
1870	37	247	15.0
1871	33	289	11.4
1872	15	162	9.3
1873	17	205	8.3
1874	23	208	11.1
1875	26	200	13.0
1876	26	183	14.2
1877	27	303	8.9
1878	79	389	20.3
1879	99	525	18.9
Total Decade	382	2 711	14.1
1880	85	654	13.0
1881	64	525	12.2
1882	72	620	11.6
1883	83	612	13.6
1884	66	611	31.1
1885	82	500	16.4
1886	92	469	19.6
1887	69	405	17.0
1888	59	459	12.9
1889	42	527	8.0
Total Decade	714	5 382	13.3
1890-1	32	569	5.6
1891-2	12	358	3.4
1892-3	6	337	1.8
TOTAL	1 161	9 539	12.2

Source: NBB, Vol. 1 & 2, 1869 - 1892-3.

Venereal Diseases treated at Indian Hospitals, (1883-1893)

	<u>1883</u>	<u>1884</u>	<u>1885</u>	<u>1886</u>	<u>1887</u>	<u>1888</u>	<u>1889</u>	<u>1890-1</u>	<u>1891-2</u>	<u>1892-3</u>	<u>Total</u>	<u>% Grand Total</u>
Depot	57	67	52	23	68	74	46	355	274	236	1 252	43.7
Avoca	53	59	32	17	47	53	48	51	59	54	473	16.5
Verulam	63	70	45	19	28	19	45	33	47	20	389	13.6
Umzinto	16	25	39	23	22	32	54	51	48	54	364	12.7
Isipingo	13	16	23	21	9	14	9	25	25	24	179	6.3
Howick			13	12	5	9	4	23	16	12	94	3.3
Estcourt					7	3	10	17	6	6	49	1.7
Stanger									7	38	45	1.6
Weenen				19							19	0.7
Total	202	237	204	134	186	204	216	555	482	444	2 864	

Source: NBB, Vol. 2, 1884 - 1892-3.

Social Diseases (Out-Patients) treated at Grey's Hospital  
(1882-1893)

	<u>Total</u> <u>Venereal</u> <u>Diseases</u>	<u>Total No.</u> <u>of cases</u>	<u>%</u> <u>Venereal</u> <u>Diseases</u>	<u>No. of cases</u> <u>entered in</u> <u>Case Book</u>	<u>% Venereal</u> <u>Diseases in</u> <u>Case Book</u>
1882	129	1 554	8.3		
1883	166	1 984	8.4		
1884	109	2 796	3.9	350	31.1
1885	248	3 086	8.0	718	34.5
1886	335	5 678	5.9	960	34.9
1887	391	7 179	5.4	1 470	26.5
1888	324	7 197	4.5	1 152	28.1
1889	268	6 688	4.0	979	27.4
1890-1	229	6 464	3.5	840	27.3
1891-2	222	5 687	3.9	864	25.7
1892-3	247	5 380	4.6	1 809	13.7
	(2 668)	(53 693)	(5.0)	(9 142)	(26.0)

NOTE: Record was kept of certain cases in the case book, either because of the grave nature of the disease, or for some other reason, giving the case interest or importance. Repeated visits of patients already entered in the case book, or trivial cases, were not entered. NBB, Vol. 2, 1884 - 1892-3.

Venereal Diseases treated at Grey's Hospital  
(External Department), according to Race and Gender  
(1882-1892)

	<u>1882</u>	<u>1883</u>	<u>1885</u>	<u>1886</u>	<u>1887</u>	<u>1888</u>	<u>1889</u>	<u>1890-1</u>	<u>1891-2</u>	<u>Total</u>
White										
Male	19	26	44	51	46	32	17	26	17	278
Female	0	1	7	18	10	11	10	5	7	69
African										
Male	63	74	102	136	150	120	100	85	81	911
Female	32	17	55	48	76	64	46	34	43	415
Indian										
Male	3	7	6	23	54	47	52	36	42	270
Female	3	0	8	6	19	10	9	15	4	74
Others										
Male	3	4	16	34	23	20	18	18	10	146
Female	1	3	8	22	9	14	11	7	2	77
Total	(124)	(132)	(246)	(338)	(387)	(318)	(263)	(226)	(206)	(2 240)

Source: NBB, Vol. 2, 1884 - 1891-2.